

OFFICIAL GAZETTE



GOVERNMENT OF GOA, DAMAN AND DIU

EXTRAORDINARY

GOVERNMENT OF GOA, DAMAN AND DIU

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/B/7/30/1927/73

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 25th September, 1973 is hereby published for general information in pursuance of the provisions of Rule 127 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Irrigation Bill, 1973

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The Goa, Daman and Diu Irrigation Bill, 1973

(Bill No. 13 of 1973)

A

BILL

to make provision for the construction, maintenance, and Regulations of Canals, for the Supply of Water therefrom, obtaining labour in emergencies and for the levy of rates for water so supplied and certain other matters pertaining to Irrigation in the Union territory of Goa, Daman and Diu.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-fourth Year of the Republic of India as follows:

PART I

Preliminary

1. **Short title, extent and commencement.**— (1) This Act may be called the Goa, Daman and Diu Irrigation Act, 1973.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette appoint:

Provided that different dates may be appointed for different areas of the Union territory of Goa, Daman and Diu.

2. **Definitions.**— In this Act, unless the context otherwise requires,—

(1) "bandhara" means any structure permanent or otherwise, constructed or maintained for the purpose of impounding or diverting water of any river, stream, lake or any natural collection of water, and includes any weirs, sluices, head walls, groins or any other works connected with such bandharas;

(2) "canal" includes—

(a) all canals, channels, pipes and reservoirs, bandharas, weirs, tanks, ponds, spring ponds and sluices constructed, maintained or controlled by Government for the supply or storage of water;

(b) all works, embankments, structures, and supply and escape channels connected with such canals, channels, pipes or reservoirs, bandharas, weirs, tanks and all roads constructed for the purpose of facilitating the construction or maintenance of such canals, channels, pipes or reservoirs;

(c) all water courses, drainage works and flood embankments;

(d) any part of a river, stream, lake, natural collection of water or natural drainage-channel to which the Government may apply the provisions of section 4, or the water of which has been applied or used before the commencement of this Act for the purpose of irrigation;

(e) all land belonging to the Government which is situated on the bank of any canal and which has been appropriated under the orders of the Government for the purposes of such canal; and

(f) all mechanical and electrical appliances, tools and plants and structures, installed or constructed, maintained or controlled by the Government for lifting water;

(3) "Canal-Officer" means any officer appointed, or invested with powers of a Canal Officer, under section 3;

(4) "Collector" includes any officer appointed by the Government to exercise all or any of the powers of a Collector under this Act;

(5) "drainage work" means any work in connection with a system of irrigation or reclamation made or improved by the Government for the purpose of the drainage of any place, whether under the provisions of section 14 or otherwise and includes escape-channels from a canal, dams, weirs, embankments, sluices, groins and other works connected therewith but does not include works for the removal of sewage;

(6) "flood-embankment" means any embankment constructed or maintained by the Government in connection with any system of irrigation or reclamation works for the protection of land from inundation or which may be declared by the Government to be maintained in connection with any such system, and includes all groins, spurs, dams and other protective works connected with such embankments;

(7) "Government" means the Administrator of the Union territory of Goa, Daman and Diu appointed by the President under article 239 of the Constitution;

(8) "Inspector" means such officer as the Government may declare to be an Inspector for the purpose of this Act;

(9) "land holder" or "holder" means the person in whom a right to hold the land is vested, whether solely on his own account or wholly or partly in trust for another person or for a class of persons or for the public and includes a mortgagee vested with right of possession;

(10) "land under irrigable command of a canal" means such lands as are irrigated or capable of being irrigated from a canal, being under its command and shall include also such lands as are or shall be deemed to be irrigated within the meaning of section 37;

(11) "Mamlatdar" includes any officer appointed by the Government to exercise all or any of the powers of a Mamlatdar under this Act;

(12) "notification" means a notification published in the Official Gazette;

(13) "occupier" means in respect of any land, any person who has an interest in the land and cultivates the land himself or by his servants or by hired labour and includes a tenant;

(14) "owner" includes every person having a joint interest in the ownership of the thing specified and all rights and obligations which attach to an owner under this Act shall attach jointly and severally to every person having such joint interest in the ownership;

(15) "prescribed" means prescribed by rules made under this Act;

(16) "water-course" means any water-channel or pipe having a capacity not exceeding thirty litres

per second, which is supplied with water from a canal and includes all subsidiary works belonging to such channel or pipe except the sluice or outlet through which water is supplied to such channel or pipe.

3. Appointment of officers.—The Government may—

(a) appoint such officers with such designations, and assign to them respectively such powers and duties under this Act, as it may deem fit;

(b) invest any Government Officer, in any Department, either personally or in right of his office by name or by virtue of office or any other person, with such powers, and impose upon him such duties, under this Act, as it may deem fit.

PART II

Construction, Control and Maintenance of Canals

4. Notification when water supply to be applied for purposes of canals.—Whenever it appears expedient to the Government that the water of any river or stream flowing in a natural channel or of any lake, or any other natural collection of still water, should be applied or used by the Government for the purpose of any existing or proposed canal, the Government may, by notification declare that the said water will be so applied or used after a day to be specified in the said notification, not being earlier than three months from the date thereof.

5. Powers of Canal Officer for purpose of so applying water supply.—At any time after the day specified under section 4, the Canal-Officer may enter on any land, remove any obstruction, close any channel and do any other thing necessary for such application or use of the said water, and for such purpose may take with him, or depute or employ, such subordinates and other persons as he deems fit.

6. Entry for inquiry.—Whenever it shall be necessary to make any inquiry or examination in connection with a proposed canal or with the maintenance of an existing canal, the Canal Officer and any person acting under the general or special order of any such Canal-Officer, may—

(a) enter upon such land as he may think necessary for the purpose;

(b) exercise all powers and do all things in respect of such land as he might exercise and do, if the Government had issued a notification under the provisions of section 4 of the Land Acquisition Act, 1894 (Central Act I of 1894), to the effect that the land in that locality is likely to be needed for a public purpose; and,

(c) set up and maintain water-gauges and do all other things necessary for the prosecution of such inquiry and examination.

7. Power to inspect and regulate water supply.—The Canal-Officer and any person acting under the general or special order of any such Canal-Officer may enter upon any land, building or water course with respect to which any water rate is chargeable under this Act, for the purpose of inspecting or regulating the use of water supplied or for measuring the land irrigated thereby chargeable with a water rate and for doing all things necessary for the proper

regulation and management of the canal from which such water is supplied.

8. Power to enter for repairs and to prevent accidents. — In case of any accidents being apprehended or happening to a canal, the Canal-Officer and any person acting under the general or special order of any such Canal-Officer, may enter upon land adjacent to such canal and may take all materials required to execute all works which may be necessary to such lands for the purpose of preventing such accident or repairing any damage done.

9. Notice to occupier of building etc. — When a Canal-Officer or any other person acting under his general or special orders in this behalf proposes acting under the provisions of section 6, section 7 or section 8 to enter into any building or enclosed court or garden attached to a dwelling house, not supplied with water from a canal and not adjacent to a flood-embankment, he shall previously give to the occupier of such building, court or garden such reasonable notice as the urgency of the case may allow.

10. Means of crossing canals to be provided and obstructions to drainage to be avoided. — Suitable means of crossing canals shall be provided at such places as the Government thinks necessary for the reasonable convenience of the inhabitants of the adjacent land, and suitable bridges, culverts or other works shall be constructed to prevent the drainage of the adjacent land being obstructed by any canal.

11. Government may prohibit formation of obstructions of rivers etc., within certain limits. — Whenever it appears to the Government that injury to the public health or public convenience or to any canal or to any land for which irrigation from a canal is available, has arisen or may arise from the obstructions of any river, stream or natural drainage course, the Government may, by notification, prohibit within limits to be defined in such notification, the formation of any such obstruction, or may, within such limits, order the removal or other modifications of such obstruction and thereupon so much of the said river, stream, or natural drainage course, as is comprised within such limits, shall be held to be a drainage work as defined in section 2.

12. Canal-Officer may issue order to person causing obstruction. — The Canal-Officer, may after the publication of the notification under section 11, issue an order to any person causing or having control over any such obstruction; to remove or modify the same within such period as may be specified in such order.

13. Canal-Officer may cause obstruction to be removed. — If within the period specified in the order under section 12, any person does not comply with such order, the Canal-Officer, may cause the obstruction to be removed or modified and such person shall be liable to pay the expenses of removal or modification, and if the person does not, when called upon, pay the expenses of such removal or modification, such expenses shall be recoverable as an arrear of land-revenue.

14. Construction of drainage works. — Whenever it appears to the Government that any drainage work is necessary for the public health or for the

improvement of the proper cultivation or irrigation of any land, or that protection from flood or other accumulations of water, or from erosion by a river is required for any land, the Government may cause a scheme for such work to be drawn up and carried into execution, and the person authorised by the Government to draw up and execute such scheme may exercise in connection therewith the powers conferred on Canal-Officer by sections 6, 7 and 8 and shall be liable to the obligations imposed upon Canal-Officer by sections 9 and 28.

PART III

Water Courses

15. Determination of the need for water-course and their alignment in any area. — (1) The Canal-Officer on being satisfied that the construction of water-courses in any area is necessary in the public interest for supply of water from a canal to lands requiring such supply for the purpose of cultivation, shall declare by notification, that such water-courses may be constructed after a date to be specified in the notification, not being earlier than thirty days from the date of publication thereof. A copy of such notification shall be sent to the Mamlatdar of the area for publication in the village concerned.

(2) After the date specified in the notification under sub-section (1) the Canal-Officer shall determine the suitable alignment for the water-courses and shall mark out the land, which in his opinion, is necessary to occupy for the construction thereof. He shall forthwith publish a notification by affixture on the notice board in his office that so much of such land as is situated within such village or villages has been so marked out and shall send a copy of such notification to the Mamlatdar for publication in every village through which the water-course is taken on such lands. He shall also send a copy of such notification to the Collector of every District in which such land is situated.

16. Collector to acquire land. — (1) On receipt of a copy of a notification under section 15, the Collector shall issue notices to the owner of such land and other persons interested in it to show cause why such land should not be acquired and after giving them a reasonable opportunity of being heard, if satisfied that such land is required for a water-course, proceed to acquire and take possession of such land under the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894) as if a declaration had been issued by the Government for the acquisition thereof under section 6 of that Act and as if the Government had thereupon directed the Collector to take order for the acquisition of such land under section 7 of the said Act and as if the Government had issued orders for the immediate possession being taken under section 17 of the said Act.

(2) Notwithstanding anything contained in the Land Acquisition Act, 1894 (Central Act 1 of 1894), the acquisition of any land under sub-section (1) shall be deemed to be for a public purpose.

(3) Save as aforesaid, the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894), shall apply to acquisitions to be made under this Act.

17. Such acquired land to remain as property of Government. — On possession of the land being taken, the Canal-Officer shall fix the boundry

marks in the prescribed manner and thereupon the ownership of such land shall vest in Government.

18. Obligations of user of water-course. — (1) Every user of the water-course shall be bound to maintain such water-course in a fit state of repair for the conveyance of water.

(2) Every user of water-course shall subject to the provisions of Part IV be entitled to have a supply of water by such water-course on such terms as may be prescribed.

19. Failure to execute work or to repair water-course. — If any user of a water-course fails to fulfil any obligation imposed upon him by sub-section (1) of section 18, the Canal-Officer may require him, by notice to execute the necessary repairs within a period of not less than seven days to be specified in such notice, and, in the event of a failure, may execute the same and, except as hereinafter provided in this section, all expenses incurred in the execution of such repairs shall be a sum due by such user to the Government and shall be recoverable as an arrear of land revenue.

20. Canal-Officer to construct water courses. — After any land has been acquired under section 16 and has vested in the Government under section 17, the Canal-Officer shall construct the water-courses necessary in the area.

PART IV

Supply of Water

21. Regulation of water supply from canal. — The Canal-Officer by a notification in respect of any canal or class of canals may, after such inquiry as he deems fit, regulate in respect of any canal for each year or for a specified term of years at a time, as circumstances may require —

- (1) the time for letting out water for irrigation;
- (2) the period of supply;
- (3) the quantity of supply; and
- (4) the areas to be supplied at different times.

Explanation: — A land shall be deemed to have been supplied with water if water is made available for irrigation of such land.

22. Power to stop water supply. — The supply of water to any water-course or to any person who is entitled to such supply shall not be stopped except —

(a) whenever and so long as it is necessary to stop such supply for the purpose of executing any work ordered by the competent authority competent to accord administrative approval under the C.P.W.D. Manual.

(b) whenever and so long as any water-course by which such supply is received is not maintained in such repair as to prevent the wasteful escape of water therefrom;

(c) whenever and so long as it is necessary to do so in order to supply in rotation the legitimate demands of other persons entitled to water;

(d) whenever and so long as it may be necessary to do so in order to prevent the wastage or misuse of water;

(e) within the periods fixed from time to time by a Canal-Officer duly empowered by the Government in this behalf, of which due notice shall be given;

(f) whenever there is diminution in the supply of water in the canal work due to any natural or seasonal causes and so long as it is necessary to do so.

23. Agreement for supply of water transferable with the property in respect of which supply is given. — Every agreement for the supply of canal water to any land, building or other immovable property shall be transferable therewith and shall be presumed to have been so transferred whenever a transfer of such land, building or other immovable property takes place.

No person entitled to the use of any work or land appertaining to any canal, and, except in the case of any such agreement as aforesaid, no person entitled to use the water of any canal, shall sell or sub-let or otherwise transfer his right to such use without the permission of the Canal-Officer.

24. Regulation of cultivation on lands. — (1) Subject to the provisions of section 25, and subject to such directions as may be issued from time to time, the Canal-Officer may in any year, having regard to the quantity of water available in any canal under his control determine, by order published in the prescribed manner and within the time prescribed the area of lands in the irrigable area of such canal, to be cultivated with paddy, sugarcane, or any perennial crop or intermittent irrigated dry crops or with dry or semi-dry crops and regulate the supply of water for irrigation accordingly.

(2) If, in accordance with a decision of the Canal-Officer under sub-section (1), any land entitled to supply of water under the canal is not supplied with water, the holder of such land shall be liable to pay only the dry assessment of such lands.

(3) From the order of the Canal-Officer under this section an appeal shall lie within fifteen days from the date of the publication of the said order, to the Collector of the district.

25. Power to prescribe the kind of crop to be grown under the irrigation area and the period of sowing such crop. — (1) Whenever the Government is satisfied that for the better cultivation of the lands and the due preservation of the water-resources of a canal, it is expedient and desirable in the public interest to regulate the kind of crop that should be grown on lands irrigated by such canal and the period of sowing such kind of crop, it may, by notification, make a declaration to that effect.

(2) On making of a declaration under sub-section (1), the Canal-Officer, with the approval of the Collector, may specify by notification in such manner as may be prescribed the kinds of crop that shall be grown on any land under such canal and the period of sowing and planting such crops.

(3) On the publication of a notification under sub-section (2) no person shall grow or allow any crop other than the crops specified in such notification to be grown on any land under such canal and no person shall sow or plant or allow the sowing or planting of crop at any time other than during the period specified in such notification.

(4) In all cases in which the person who has sown or grown any unauthorised crop or allowed any land to be grown or sown with such unauthorised crop cannot be found, the holder of the land in addition to such other person concerned, shall —

(a) be liable for contravening the provisions of this section; and

(b) also be liable to pay such water rate as may be determined by the Canal-Officer not being less than five times and not exceeding ten times the water rate which he would otherwise have been required to pay:

Provided that if no water is utilised either directly or indirectly from the canal for growing any crop, the provisions of sub-sections (3) and (4) shall not be applicable.

PART V

Award of Compensation

26. Compensation for damage caused consequent of the exercise of the powers conferred by this Act.— Compensation may be awarded in respect of any substantial damage caused by the exercise of any of the powers conferred by this Act, which is capable of being ascertained:

Provided that no compensation shall be so awarded in respect of any damage arising from —

(a) deterioration of climate or soil; or

(b) stoppage of navigation or of the means of floating timber or of watering cattle; or

(c) stoppage or diminution of the supply of water in consequence of the exercise of the power conferred by section 5 if no use has been made of such supply within the five years immediately preceeding the date of the issue of the notification under section 4; or

(d) failure or stoppage of any water in a channel where such failure or stoppage is due to: —

(i) any cause beyond the control of the authority in charge of the canal;

(ii) the execution of any repairs, alterations, or additions to the canal;

(iii) any measures considered necessary by the Canal-Officer, for regulating the proper flow of water in the channel or for maintaining established course of irrigation; or

(iv) circumstances mentioned under clauses (a) to (f) of section 22:

Provided further that any person who suffers loss from any stoppage or diminution of water supply to his lands due to any of the causes named in clauses (d) of the preceeding proviso shall be entitled to such remission of the water rate payable by him as may be authorised by the Government.

27. Limitation of claims.— No claim for compensation under this Act shall be entertained after the expiration of twelve months from the time when the damage complained of commenced, unless the Collector is satisfied that the claimant is prevented by sufficient cause from making the claim within such period.

28. Compensation for damage caused by entry on land, etc.— (1) In every case of entry upon any land or building under section 5, section 6, section 7

or section 8, the Canal-Officer or the person making the entry shall ascertain and record the extent of the damage, if any, caused by the entry or in the execution of any work, to any crop, tree, building or other property and the value of the materials taken or utilised and within one month from the date of such entry, compensation shall be tendered by the Canal-Officer to the land holder or owner of the property damaged, as the case may be.

(2) If such tender is not accepted, within a week of such tender, the Canal-Officer shall forthwith refer the matter to the Collector for the purpose of determining the amount of compensation.

29. Claims to be preferred to the Collector.— (1) All claims for compensation under this Act other than claims of the nature provided for in section 28 shall be made to the Collector of the District in which such claim or part of it arises.

(2) The Collector shall enquire into all such claims and determine the amount of compensation, if any, which should be awarded. In determining such amount, the Collector shall, as far as possible be guided by the provisions of sections 23 and 24 of Land Acquisition Act, 1894: 1 of 1894.

Provided that regard shall be had to the diminution in the market value at the time of awarding compensation, of the property in respect of which compensation is claimed; and where such market value is not ascertainable, the amount shall be reckoned at twelve times the amount of the diminution of the annual netprofits of such property caused by the exercise of powers conferred by this Act:

Provided further that no order determining the amount of compensation shall be made by the Collector under this section without the previous approval of the Government or such officer as the Government may appoint in this behalf.

30. Appeal.— Any person aggrieved by the order of the Collector under section 28 or section 29 may, within ninety days from the date of communication of the order, prefer an appeal to the Administrative Tribunal established under the Goa, Daman and Diu Administrative Tribunal Act, 1965, (6 of 1965).

31. Compensation when due and interest payable.— All sums of money payable for compensation awarded under this Part shall become due three months after the final award is made, under section 29 and simple interest at the rate of twelve per cent per annum shall be allowed on any sum remaining unpaid after the said three months, except when the non-payment of such is caused by the neglect or refusal of the claimant to apply for or receive the same.

32. Abatement of revenue demand on interruption of water supply.— If compensation is awarded under section 29 on account of a stoppage or diminution of supply of water to any land paying land revenue to the Government and the amount of the land revenue payable on account of such land has been fixed with reference to the water advantages appertaining thereto, the holder of the said land shall be entitled to an abatement of the amount of land revenue payable to such extent as shall be determined by the Collector of the District.

PART VI

Water rates, Betterment charges and Irrigation cess

33. Determination of rates for supply of canal water. — (1) Such rates shall be leviable for canal-water supplied for purposes of irrigation or for any other purpose, as shall, from time to time, be determined by the Government.

(2) If, owing to the construction of a new canal or to the improvement or extension of an existing canal, the quantity or duration of any water supply, in respect of which either no revenue or a fixed amount of revenue has hitherto been paid to the Government, is increased, rate shall be revised in respect of the increased water supply as may be determined by the Government.

(3) The rates mentioned in sub-section (2) shall be payable by the person on whose application the supply was granted, or by any person who uses the water so supplied.

34. Liability when person using water unauthorisedly cannot be identified. — If water supplied through a water-course be used in an unauthorised manner, and if the person by whose act or neglect such use has occurred cannot be identified the person or all the persons on whose land such water had flowed, if such land has derived benefit therefrom, or, if no land has derived benefit therefrom, the person or all persons chargeable in respect of the water supplied through such water-course, shall be liable, or jointly liable, as the case may be, for the charges which shall be made for such use under the rules made under this Act.

35. Liability when water runs to waste. — (1) If water supplied through a water-course be suffered to run to waste, and if, after inquiry, the person through whose act or neglect such water was suffered to run to waste cannot be discovered, the person or all the persons chargeable in respect of the water supplied through such water course shall be liable or jointly liable, as the case may be, for the charges which shall be made in respect of the water so wasted under the rules made under this Act.

(2) All questions arising under this section and section 34 shall, subject to the provisions of section 91 be decided by a Canal-Officer duly empowered by the Government in this behalf.

36. Charges recoverable in addition to penalties. — All charges for the unauthorised use or for waste of water may be recovered, as water rates, in addition to penalties incurred on account of such use or waste.

37. Land deriving benefit from percolation liable to water rates. — If it appears to a Canal-Officer duly empowered by the Government in this behalf to enforce the provisions of this section, that any cultivated land within two hundred metres of any canal receives, by percolation or leakage from such canal, and advantage equivalent to that which would be given by a direct supply of canal water for irrigation, or that any cultivated land, wherever situated, derives by a surface flow, or by means of a well sunk within two hundred metres of any canal after the admission of water into such canal, a supply of water which has percolated or leaked from such canal, he may charge on such land a water-rate not

exceeding that which would ordinarily have been charged for a similar direct supply to land similarly cultivated.

Explanation. — For the purpose of this Act, land charged under this section shall be deemed to be land irrigated from a canal.

38. Levy of water rate for use of percolation water for non-irrigation purposes. — (1) If it appears to the Canal-Officer that any natural stream, artificial drain or well sunk within two hundred metres of any canal is deriving percolation water from such canal, and the water from such stream, drain or well is used for purposes other than those of irrigation, he may charge for the use of such water, a water rate not exceeding that as would ordinarily have been charged if the supply had been made from the canal for such purposes.

(2) The provisions of sub-section (1) shall not apply to water from such stream, drain or well used exclusively for domestic purposes by the residents of any village.

39. Scheme of irrigable land under command and betterment charges on construction or improvement etc. of a canal. — When the construction of a new canal or the improvement or extension of an existing canal is undertaken, the Government shall direct an officer empowered in this behalf to prepare a scheme showing the lands under the irrigable command of the canal and the betterment charges leviable on such lands.

40. Publication of scheme and notice to owners and persons interested. — (1) The scheme prepared under section 39 shall be published in the Official Gazette in such manner as may be prescribed.

(2) The Canal-Officer empowered under section 39 shall also give notice to persons known or believed to be the owners of or interested in the land under irrigable command of the canal requiring them to appear before him either personally or by agent at time and place therein mentioned (such time not being earlier than one month from the date of the notice) to state their objections, if any —

(a) to the inclusion of the lands in the scheme as the lands under irrigable command of the canal, and

(b) to the imposition and recovery of the betterment charges on such lands.

41. Inquiry and award. — On the date fixed under section 40 or on such other date to which inquiry may be adjourned, the officer concerned shall, after holding a formal inquiry in the manner provided by the Goa, Daman and Diu Land Revenue Code, 1968 (9 of 1969) and after hearing the objections, if any, stated by the persons as required by the notice under section 40 make an award, which shall specify, —

(a) the lands under irrigable command of the canal,

(b) the increase in value of such lands by the completion of the construction of a new canal or the improvement or extension of an existing canal,

(c) the amount of betterment charges leviable on each of the said land,

(d) the date from which the betterment charges shall be leviable:

Provided that no betterment charges shall be leviable in respect of any land which is unarable (kharaba).

42. Increase in value and betterment charges. — The increase in value on account of the completion of a new canal or the improvement or extension of an existing canal shall be the amount by which the value of the land on the completion date is likely to exceed the value of the land on the construction date and the betterment charges shall be one-half of such increase in value.

Explanation. — For the purposes of this section, the Government shall, by notification specify —

(a) the date of the commencement of construction of any work in connection with the construction or improvement or extension of canal, as the construction date;

(b) the date of completion of the construction, improvement or extension of a canal as the completion date.

43. Appeal to the Collector. — (1) Any person aggrieved by award made under section 41, may within sixty days from the date of the award, appeal to the Collector.

(2) The provisions of Goa, Daman and Diu Land Revenue Code, 1968 (9 of 1969) shall apply to such appeals, as if the officer empowered under section 39, was a Revenue Officer and the Collector was his immediate superior.

44. Revision by Government. — The Government may call for and examine the record of any inquiry under section 41 or of the proceedings in appeal under 43 for the purpose of satisfying itself of the legality or regularity of such inquiry or proceedings and may modify or reverse the award or the decision of the Collector.

45. Finality of orders of Government, Collector's decision and award. — Any order passed by the Government in revision under section 44 and subject to such order, the decision of the Collector on an appeal under section 43 and subject to the order of the Government and the decision of the Collector on appeal, the award made under section 41, shall be final.

46. Betterment charges to be first charge on land next to land revenue. — From the date specified in the award as the date from which the betterment charges shall be leviable, or from such date as may be otherwise specified by the Collector in appeal under section 43 or by the Government in revision under section 44 as the date from which such charges shall be leviable, the betterment charges recoverable in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the Government thereon, be a first charge on the land in respect of which such betterment charges are leviable.

47. Payment of betterment charges. — The betterment charges shall be payable on the date fixed under the rules made under this Act:

Provided that the owner of the land on which such charges are imposed may execute an agreement

in favour of the Government agreeing to pay the amount of such charges by annual instalments together with interest at such rate and within such period as may be prescribed by rules.

48. Relinquishment or exchange of land in lieu of the payment of betterment charges. — Notwithstanding anything contained in section 47, the Government may allow the owner of the land on which the betterment charges may be payable to relinquish the whole or any part of the land or to deliver it in exchange in favour of the Government on such conditions as may be prescribed:

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances.

49. Levy of irrigation cess. — In addition to the water-rates or other charges leviable under the provisions of this Act, there shall be levied in respect of land under irrigable command of a canal a cess called 'the irrigation cess'.

50. Liability for Irrigation cess. — (1) In the case of unalienated land the occupant, and in the case of alienated land, the superior holder, shall be primarily liable to the Government for the payment of the irrigation cess, inclusive of all arrears of such cess:

Provided that in the case of any land in the possession of a tenant, if such tenant is liable to pay the irrigation cess in respect of such land under the provisions of the Goa, Daman and Diu Agricultural Tenancy Act, 1964 (7 of 1964) such tenant shall be primarily liable to pay the irrigation cess, in respect of such land.

(2) In the case of default by any person who is primarily liable under this section, the irrigation cess including all arrears as aforesaid, shall be recoverable —

(a) from the occupant or superior holder, as the case may be, where the tenant was primarily liable, and

(b) in any other case, from any other person in possession of the land:

Provided that where the irrigation cess is recovered under this section from a person who is not primarily liable for the same, such person shall be allowed credit for any payment which he may have duly made to the person who is primarily liable, and shall be entitled to credit, or the amount recovered from him, in account with the person who is primarily liable.

51. Rate and period of irrigation cess. — (1) The irrigation cess payable in respect of any land under the irrigable command of a canal shall be at such rates for such period as may be fixed by the Government by notification in the Official Gazette.

(2) The determination of such rates and period shall be final and shall not be questioned in any court:

Provided that no increase shall be made during such period in the rates so fixed.

52. Date for payment of irrigation cess. — The irrigation cess recoverable in respect of any land shall be leviable on the date on which the land revenue is leviable in respect thereof.

53. Payment and recovery of water rates and other dues.—(1) Every water-rate leviable or charged under this Act shall be payable in such instalments and on such dates and to such officers as shall from time to time be determined under the orders of the Government.

(2) Any such rate or instalment thereof which is not paid on the date when it becomes due shall be deemed to be an arrear of land revenue due on account of the land for the use of which canal water was supplied or which was benefitted by percolation or leakage from any canal and shall be recoverable as such arrear by any of the methods specified in section 124 of the Goa, Daman and Diu Land Revenue Code, 1968 (9 of 1969) including the forfeiture of the said land.

The amount of the betterment charges or any of its instalments together with interest thereon if not paid on the dates specified in section 47 and the amount of irrigation cess, if not paid on the dates specified in section 52, shall be deemed to be an arrear of land revenue due on account of the land in respect of which it is payable and also be recoverable as such arrear by any of the methods specified in section 124 of the Goa, Daman and Diu Land Revenue Code, 1968 (9 of 1969) including the forfeiture of the said land.

(3) Any other sum due to the Government or to the Canal-Officer under the provisions of this Act whether on behalf of Government or any other person under Part III of this Act which is not paid when demanded shall, be recoverable as an arrear of land revenue in accordance with the provisions of sections 123 and 124 of the Goa, Daman and Diu Land Revenue Code, 1968 (9 of 1969).

PART VII

Of obtaining labour in emergencies

54. Procedure for obtaining labour for works or repairs urgently required.—(1) Whenever it appears to the Canal-Officer, that unless some work or repair is immediately executed such serious damage will happen to any canal as to cause sudden and extensive public injury or, that unless some clearance of a canal or other work which is necessary in order to maintain the established course of irrigation is immediately executed, serious public loss will occur, and that the labourers necessary for the proper execution of such work, repair or clearance cannot be obtained in the ordinary manner within the time that can be allowed for the execution of the same so as to prevent such injury or loss, the said officer may, by order, direct that the provisions of this section shall be put into operation for the execution of such work, repair or clearance and thereupon every able-bodied person who resides or holds land in or near the locality where such work, repair or clearance has to be executed and whose name appears in the list hereinafter mentioned, shall, if required to do so by such officer or by any person authorised by him in this behalf, be bound to assist in the execution of such work, repair or clearance as such officer or any person authorised by him in this behalf may direct.

(2) All persons so labouring shall be entitled to payment at rates which shall not be less than the highest rates for the time being paid in the neighbourhood for similar labour.

55. List of labourers.—Subject to such rules as may be prescribed the Collector shall prepare a list of the persons liable to be required to assist as aforesaid and may add to or alter such list or any part thereof.

56. Reports to be made by Canal-Officer.—All orders made under section 54 shall be immediately reported to the Collector and to the Principal Engineer.

57. Appeals against order under section 54.—Any person who does not accept the amount payable under section 54 may appeal to the Collector within thirty days from the date of any tender of payment and the decision of the Collector thereon shall be final.

PART VIII

Maintenance of Canals

58. Power to take over canal for maintenance by Government.—If the Government considers that in the interest of the proper irrigation of lands under any canal maintained by any person or body of persons, the work of maintenance of such canals be taken over by the Government and the cost of such maintenance or any part thereof recovered from the holders of land benefitted by such canal, the Government may, by notification make a declaration to that effect and after expiry of a period of not less than three months from the date of publication of such notification to be specified therein, the Government shall take over and maintain in a fit state of repairs such canal:

Provided that no artificial reservoir owned by any land holder which is actually used for the purpose of irrigation by such land holder shall be declared under this section except—

- (i) on the request of the land holder, or
- (ii) in the opinion of the Government, such notification is necessary in the public interest:

Provided further that where a notification is issued in accordance with clause (ii) of the preceding proviso, the land holder concerned shall be paid such compensation for the deprivation of his rights as may be awarded by the Collector of the District after such inquiry as may be prescribed.

On such taking over of canal it shall be deemed to be a canal within the meaning of clause (2) of section 2 and the provisions of this Act shall *mutatis mutandis* apply to it.

PART IX

Second class Canals

59. Notification of Second-class Canal.—(1) The Government may by notification—

(a) declare that it is proposed to constitute any canal, channel, stream, river, well, tubewell, artesian well, pipe or reservoir, natural or artificial or bandhara or any part thereof, whether constructed or maintained or controlled by the Government or not, which is actually used or required for the purposes of irrigation a Second-class Canal.

(b) fix a period of not less than three months from the date of publication of such notification for the submission of objections to such proposals:

Provided that no artificial reservoir or water-course supplied from such reservoir which is actually used

for the purposes of irrigation by a single land holder shall be included in such notification except either with the consent of such land holder or, if in the opinion of the Government such inclusion is necessary in the public interest, then without such consent but subject to the payment after the issue of the declaration mentioned in sub-section (3), to such land holder of such compensation for his rights as may be settled in accordance with the provisions of section 64.

(2) After the publication of such notification, it shall also be published by the Collector as soon as practicable in the language of the district at Mamlatdar's Office of the Taluka in which the work is situated and in every town and village in the opinion of the Collector is likely to be affected by such notification.

(3) After considering such objections as may have been received within the period fixed as aforesaid, the Government may, by notification, declare such canal, channel, stream, river, well, tubewell, artesian well, pipe, reservoir or bandhara or any part thereof to be a Second-class Canal.

60. Proclamation by the Collector. — Where a notification has been issued in the sub-section (3) of section 59, the Collector shall publish in the language of the District at the Mamlatdar's Office of the Taluka in which the work is situated, and in every town and village which in his opinion is likely to be affected by such declaration, a proclamation —

(a) specifying, as nearly as possible, the source of supply, situation and limits of Second-class Canal notified under sub-section (3) of section 59.

(b) stating that the provisions of this Part applies to the canal so notified from the date of the notification published under sub-section (3) of section 59; and

(c) fixing a period of not less than three months from the date of such proclamation within which every person claiming any right in the canal so notified, either to present to the Collector, a written notice specifying, or to appear before him and prove, the nature of such right.

61. Framing of Record of rights. — (1) As soon as possible after the expiry of the period fixed by the Collector under clause (c) of section 60, a Canal-Officer duly empowered by the Government in this behalf who shall be a revenue officer not below the rank of a Mamlatdar shall inquire into and settle claims to any rights in the Second-class Canal and shall record the extent of such right and draw up in such form as may be prescribed an Irrigation Record of rights so far as the same may be as certainable from the records of the Government and the evidence of any person likely to be acquainted with the same and any other documentary or oral evidence which the parties concerned or their witnesses may produce.

(2) Such Record of rights shall contain the following matters namely: —

(a) the nature of Second-class Canal and any work subsidiary thereto;

(b) the land irrigable therefrom;

(c) the custom or rule of irrigation;

(d) the rights to water and the conditions on which such rights are enjoyed; and

(e) such other matter as the Government may, by rules, prescribe in this behalf.

62. Powers of Canal-Officer. — (1) For the purpose of the inquiries under section 61, such Canal-Officer may enter, or authorise any officer to enter upon any land adjacent to any canal to which this Part applies, and may survey, demarcate and make a map of the same.

(2) Notwithstanding anything contained in section 61 where no sufficient evidence is forthcoming as to all or any of the matters specified in that section such Canal-Officer shall, so far as may be, settle and record the aforesaid matters in such manner as he may deem fit.

63. Revision of Record of rights. — The Record of rights prepared under section 61 may be revised from time to time by a Canal-Officer duly empowered by the Government in this behalf, who shall be a revenue officer not below the rank of a Mamlatdar.

64. Commutation of rights. — Where the Canal-Officer who has prepared or revised any Record of rights under this Part finds that having due regard to the maintenance or management of the Second-class Canal, any right contained in the Record of rights cannot continue to be exercised to the extent recorded, he shall (subject to such rules as the Government may prescribe in this behalf) commute such right wholly or in part, either by the payment to the holder of such right of a sum of money in lieu thereof, or by the grant of land, or in such other manner as he may think fit; and he shall revise the Record of rights accordingly.

65. Power of Government where works are undertaken increasing supply. — In the event of Government undertaking at their own cost any work whereby the supply of water in any Second-class Canal is increased beyond the amount of such supply at the time of preparing or revising the Record of rights under this Part the Government, may, without prejudice to any right so recorded direct that the right to such surplus water shall vest in the Government and shall be applied as the Government may deem fit and the Record of rights shall be revised in accordance with such directions.

66. Publication of Record of rights. — When any Record of rights has been prepared or revised under this Part, it shall be published in the language of the District at the Mamlatdar's Office of the Taluka in which the canal is situated and every town and village which in the opinion of the Collector is affected by such Record of rights.

67. Entries in the Record of rights to be relevant as evidence. — An entry in any Record of rights prepared or revised under this Part shall be relevant as evidence in any dispute as to the matters recorded and shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefrom:

Provided that no such entry shall be construed as to limit any of the powers conferred on the Government by this Part.

68. Notice of suit to be given to the Collector. — (1) In any suit or proceeding in which an entry made in any Record of rights prepared or revised

under this Part is directly or indirectly called in question, the court shall, before the final settlement of the issues, give the notice of the suit or proceedings to the Collector, and, if moved to do so by the Collector, shall make the Government a party to the suit or proceeding.

(2) Save as provided in sub-section (1), no suit shall lie against the Government in respect of anything done by the Collector, Canal-Officer or any other person acting under the orders of the Government in the exercise of any power conferred by this Part.

(3) Any suit or proceeding in which the entry made in any Record of rights prepared or revised under this Part is directly or indirectly called in question shall be dismissed (although limitation has not been set up as a defence) if it has not been instituted within one year from the date of publication under section 66 of the Record of rights, containing the said entry or if one or more appeals have been made against any order of a Canal-Officer with reference to any entry in such Records of rights from the date of any order passed by the final appellate authority under this Part.

69. Obligation to carry out petty repairs. — In every Second-class Canal, the following repairs shall be performed by the persons on whom the obligation to perform them is imposed by section 70, namely: —

(1) the filling up gullies, ruts, and holes, especially at the back of revetment and all petty repairs of a like nature essential for the safety of bunds, tanks, channel-banks, or other portions of the said Second-class Canal,

(2) the prevention of the growth on such canal of prickly pear, young trees and other vegetation endangering the safety or concealing the conditions of such canal,

(3) the preservation of such bushes and grasses as have been planted for the protection of the interior water slopes of such canal,

(4) the clearance of silt from sluices, supply and distributing channels.

(5) the clearance of waste weirs and waste channels.

70. Incidence of obligation. — The obligation to perform the repairs, specified in section 69 shall, with reference to any land irrigated from the canal, be deemed to impose jointly and severally in the case of unalienated land, on the occupants of the land and in the case of all other land, on the holders of the land, as defined in either case of Goa, Daman and Diu Land Revenue Code, 1968, (9 of 1969).

71. Power to enforce rights and obligations. — If any person, on whom any obligation is imposed with reference to any Second-class Canal by any of the provisions of this Part, fails to fulfil the obligations so imposed, or if any person infringes any right recorded in the Record of rights prepared or revised as hereinbefore provided, the Canal-Officer may require him, by notification, to fulfil such obligation or to desist from infringing such right within a period of not less than fifteen days to be specified in the notice and in the event of failure, may take such steps as may be necessary for the discharge of the said obligation or the enforcement

of the said right, and the amount of any expense so incurred shall be a sum due to the Government and shall be recoverable as an arrear of land revenue.

72. Duty of Inspector to report failure to effect repairs. — It shall be the duty of the Inspector of any village within the limits of which any Second-class Canal or portion of such canal is situated to report to the Mamlatdar without unnecessary delay any failure or neglect to carry out any of the repairs specified in section 69.

73. Public servant and some other persons protected from legal proceedings. — No suit, prosecution, or other legal proceedings shall be maintained against public servant or persons appointed under this Part in respect of anything in good faith done or purporting to be done under the provisions thereof or the rules made thereunder.

74. Power to make rules. — The Government may by notification and after previous publication make rules as to all or any of the following matters, namely: —

(1) the manner of framing and revising the Record of rights;

(2) the proceedings of any Officer who, under the provisions of this Part, is required to take action in any matter; and

(3) generally to carry out the provisions of this Part.

PART X

Safeguard for Canals

75. Limitation in respect of canals. — Except as may be prescribed, no person other than the Canal-Officer shall —

(a) interfere with or divert the course of a natural stream; or

(b) construct any earthen or masonry bund or weir on any channel or stream, flowing above or below any water course.

76. Interference with the functioning of cross drainage works. — No person, except with the written permission of the Canal-Officer shall obstruct the proper functioning of the various cross drainage works, such as culverts, aqueducts, super-passages, syphons, weirs and allied works constructed for the safety of the canals or channels.

77. Obligations of owners in respect of works affecting safety of canals. — (1) Every owner whose tank, well, pond, spring pond, talaparige or other reservoir is situated above any canal shall maintain the bunds and surplussing arrangements of such tank, well, pond, spring pond and talaparige or reservoir in a safe and efficient condition.

(2) If, in the opinion of the Canal-Officer, such bunds or surplussing arrangements of the works referred to in sub-section (1) are not in a fit condition and are likely to endanger the canal below, then the owner concerned shall be served with a notice to bring such bunds or surplussing arrangements to a reasonably fit condition, in such manner and within such time as may be specified in the notice.

(3) If the said owner fails to comply within the time specified or does repairs which, in the opinion of the Canal-Officer, are unsatisfactory, the Canal-Officer may carry out the necessary repairs and the cost thereof shall be recovered from the said owner as an arrear of land revenue.

(4) From any order of the Canal-Officer under this section, an appeal shall lie within one month from the date of communication of the order, to the Collector of the district, whose decision thereon shall be final.

78. Mining or quarrying near canals. — No person shall conduct mining or quarrying operations requiring the use of explosives within a distance of one kilometre from the boundaries of a canal without the written permission of the Canal-Officer.

79. Excavation of wells near canals. — No new well shall be excavated within such distance as may be specified by the Government, from time to time, from the boundaries of canal without the written permission of a Canal-Officer.

80. Operation of sluice gates, etc. — No person, other than Canal-Officer or other person duly empowered by the Canal-Officer in this behalf shall have the right to operate a sluice-gate, regulator or flood gate of a reservoir, canal or channel.

81. Fishing and plying of boats, etc. — No person shall have the right to ply any vessel in a reservoir or tank or across or along a canal or channel maintained or controlled by the Government without the permission in writing of the Government or of such officer as may be empowered in this behalf by the Government and except under such terms and conditions and subject to payment of such fees as may be prescribed:

Provided that no permission for fishing in any tank with an achkat of not more than two hundred hectares shall be granted by any officer empowered under this section except with the concurrence of the Canal-Officer.

82. Letting out of water from canal prohibited. — No person other than the Canal-Officer or any officer duly empowered in this behalf shall let out water from a canal or channel by cutting the bund, constructing a sluice gate or outlet or any other similar contrivance.

83. Depositing produce of mines in or near canal prohibited. — No person shall deposit any produce of mines in or near any canal or other work, whether natural or artificial, through which rain or other water flows into any canal.

PART XI

Penalties

84. Offences under the Act. — Whoever voluntarily and without proper authority. —

(i) damages, alters, enlarges or obstruct any canal;

(ii) interferes with, increases or diminishes the supply of water in, or the flow of water from, through, over or under any canal, or by means raises or lowers the level of the water in any canal;

(iii) opens, shuts or obstructs or attempts to open, shut or obstruct any sluice or outlet or any other similar contrivance in any canal;

(iv) corrupts or fouls the water of any canal so as to render it less fit for the purposes for which it is ordinarily used;

(v) destroys, defaces or moves any land mark or level mark or water gauge fixed under the authority of a public servant;

(vi) destroys, tampers with or removes any apparatus, or part of any apparatus for controlling, regulating or measuring the flow of water in any canal;

(vii) causes any animal or vehicle to pass on or across any of the works, banks or canals or channels of a canal contrary to the rules made under this Act after he has been required to desist therefrom;

(viii) causes or knowingly or wilfully permits cattle to graze upon any canal or flood-embankment, or causes, or knowingly and wilfully permits cattle to be teathered upon any such canal or embankment or roots up any grass or other vegetation growing on any such canal or embankment or removes, cuts or in any way injures, or causes to be removed, cuts or otherwise injures any tree, bush, grass or hedge intended for protection of such canal or embankment;

(ix) puts up a dam across or otherwise obstructs the free course of water the right to which vests in the Government;

(x) being responsible for the maintenance of any water-course, or using the water-course, neglects to take proper precautions necessary for the prevention of waste of the water thereof, or interferes with the authorised distribution of the water therefrom or uses such water in an unauthorised manner;

(xi) contravenes any provision of this Act;

(xii) contravenes any rule made under this Act, the contravention whereof is declared in the rules to be an offence punishable under this section;

shall, on conviction, be punished for the offences under clauses (vi), (ix) and (x) with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees or with both, and for offences under any other clause, with imprisonment for a term which may extend to two months or with fine which may extend to five hundred rupees or with both:

Provided that for a second or subsequent offence under clause (vii) or clause (viii), such fine shall not be less than fifty rupees, and under other clause, such fine shall not be less than two hundred and fifty rupees:

Provided further that in the case of a continuing offence, a daily fine not exceeding fifty rupees for every day during the period of the continuance of the offence shall also be imposed.

85. Obstruction to be removed and damage repaired. — Where any person is convicted under section 84, the court sentencing him may order that he shall remove the obstruction or repair the damage in respect of which the conviction has been made within a period to be specified in such order. If such person neglects or refuses to obey such orders within the period specified, any Canal-Officer duly empow-

ered by the Government in this behalf may remove such obstruction, or repair such damage, and the cost of such removal or repair as certified by the said officer shall be recoverable from such person as an arrear of land revenue.

86. Abatement. — Whoever abate any offence punishable under this Act or attempts to commit such offences shall be punished with the punishment provided in this Act for such offence.

87. Person employed on canal may take offenders into custody. — Any person in charge of, or employed in connection with any canal, may remove from the lands or buildings belonging thereto or may take into custody without a warrant, and take forthwith before a Magistrate or to the nearest police station, any person who within his view. —

(1) wilfully damages, obstructs or fouls such canal, or

(2) without proper authority interferes with the supply or flow of water, in or from the canal, or in any river or stream so as to endanger, damage, make dangerous, or render less useful, such canal.

88. Punishment under other laws not barred. — Nothing contained in this Act shall prevent any person from being prosecuted under any other law for the time being in force for any act or omission made punishable by this Act.

89. Offences under this Act to be cognizable. — All offences under this Act except offences under clauses (vii) and (viii) of section 84 shall be cognizable.

90. Payment of fine as reward to informant. — Whenever any person is fined for an offence under this Act, the Court which imposes such fine, or which confirms in appeal or revision, a sentence of such fine or a sentence of which such fine forms a part, may direct that the whole or any part of such fine may be paid by way of reward to any person who gave information leading to the detection of such offence or to the conviction of the offender.

PART XII

Miscellaneous

91. Appeals against orders under Act. — Any person aggrieved by order of the Canal-Officer under sections 12, 19, 24, 34, 35, 37 and 38 may within thirty days from the date of communication of the order prefer an appeal to the Collector of the district.

92. Power to summon and examine witnesses. — Any officer empowered under this Act to conduct any inquiry, may exercise all such powers connected with the summoning and examining of witnesses and the production of documents as are conferred on a civil court, by the Code of Civil Procedure, 1908, (Central Act 5 of 1908) and every such inquiry shall be deemed to be a judicial proceeding for the purposes of sections 193 and 224 of the Indian Penal Code (Central Act 45 of 1860).

93. Service of notices. — Service of any notice under this Act shall be made by delivering or tendering a copy thereof signed by the officer mentioned. Wherever it is practicable, the notice shall be made by hand.

When such person cannot be found, the service may be made on any adult male member of his family residing with him; and if no such adult male member can be found, the notice may be served by affixing a copy of the notice on the outer door of the house in which the person therein named ordinarily dwells or carries on business and if such person has not, residence or place of business within the District, service of any notice may be made by sending a copy of such notice by post in registered cover addressed to such person at his residence or place of business.

94. Bar of certain proceedings etc. — (1) No suit, prosecution or other proceeding shall lie against any officer or servant of the Government, for any Act done or purporting to be done under this Act, without the previous sanction of the Government.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of the functions imposed by, or under, this Act.

(3) No suit shall be instituted against the Government in respect of any act done unless the suit is instituted within six months from the date of the act complained of.

(4) In the case of an intended suit against any officer or servant of the Government under sub-section (1), or the Government under sub-section (3) the person intending to sue shall be bound to give the officer or servant or Government as the case may be, at least one month's notice of the intended suit with sufficient description of the cause of action, failing which such suit shall be dismissed.

(5) Save as otherwise expressly provided in this Act, no civil court shall entertain any suit instituted in respect of any matter to which this Act applies.

95. Offences by companies. — (1) If the person committing an offence under this Act is a company, the company as well as every person in charge of, and responsible to the company for the conduct of its business at the time of commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company such director, manager, secretary, or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation. — For the purposes of this section

(b) 'Director' in relation to firm means a partner in the firm.

96. Saving of certain canals. — Nothing in this Act shall apply to any Canal, channel, reservoir, lake or other collection of water vesting in any municipality.

97. Power to make rules. — (1) The Government may, after previous publication by notification, make rules for the purpose of carrying out the provisions of this Act, and such rules may be general for all canals or may be special for one or more canal, as may be specified in such rules.

(2) Without prejudice to the generality of the foregoing power, such rules may be made in respect of the following matters, namely: —

(a) the proceedings of any officer who, under any provision of this Act, is required or empowered to take action in any matter;

(b) the amount of and charges to be made under this Act;

(c) the economic use of water supplied from any canal;

(d) the manner in which and the officer by whom complaints as to the inadequacy of means of crossing shall be investigated under section 10;

(e) regulating the period of opening and closing the channels distributaries and sub-distributaries of canal;

(f) the other manner in which the scheme shall be published under section 40;

(g) the date or payment of the rate of interest on and the period which the instalments of betterment charges shall be paid under section 47;

(h) the suspension or remission of betterment charges, the instalments thereof and the interest thereon;

(i) the conditions subject to which the relinquishment or exchange of lands shall be permitted under section 48;

(j) the division into zones of lands under the irrigable command of a canal for the purpose of the betterment charges leviable on such lands;

(k) and generally to carry out the provisions of this Act.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly of Goa, Daman and Diu while it is in session for a total period of 30 days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Assembly agrees in making any modification in any such rule or the Assembly agrees that the rule should not be made, the rule shall, thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

98. Repeal. — The Diploma Legislative No. 1562 of 11th November, 1964 is hereby repealed.

Statement of Objects and Reasons

Government has been trying since long to increase the irrigation facilities in this Union territory. A number of irrigation works have been completed so far and many more are being taken up. In addition three major irrigation projects are also taken up. They are: —

- (1) Salauli Project in Sanguem Taluka (Estimated cost: Rs. 9.61 crores) work on which has already commenced.
- (2) Tillari Project in Sawantwadi Taluka (Estimated cost: Rs. 30 crores) on which the project report is under finalisation.
- (3) Dudhsagar Multipurpose Project (Estimated cost: Rs. 11 crores) the report on which is under scrutiny.

At present there is no suitable legislation on irrigation in this territory. The existing law regulating the matter is the Legislative Diploma No. 1562 which covers only the two canals viz. the Paroda Canal and the Khandepar Canal. This Diploma is not comprehensive, not only from the point of view of its coverage of area and works but also for the provisions for construction, maintenance and regulations of irrigation works including the levy of water rates.

Government has felt therefore urgent need for drafting legislation on the matter in order to regulate the constructions maintenance and full utilisation of irrigation works and so the Bill for the Irrigation Act has been prepared on the basis of the following legislations in force in the neighbouring States: —

- (1) The Mysore Irrigation Act, 1965.
- (2) The Bombay Irrigation Act, 1869.

The Bill among other things empowers the Government to take up drainage and flood control schemes for any land, to regulate the water supply for irrigation so that the expected area gets the irrigation facilities, construction of small water courses, to implement a suitable cropping pattern for optimum benefits from irrigation works, to charge water rates, to take up works during emergency in order to protect the irrigation works, to impose penalties on defaulters and to safeguard the irrigation works. The need for early legislation in this matter is required particularly because of the three major irrigation projects above referred which are expected to come up shortly.

PART I

Clause 1 — This clause deals with short title extent and commencement of the Act. The Government has been empowered to bring the Act into force on different dates in different areas if it so desires.

Clause 2 — This clause deals with definitions of various terms used in the Act.

Clause 3 — This clause authorizes the Government to appoint officers to exercise the powers and discharge the functions under the Act.

PART II

Clause 4 — Government is empowered by this clause to notify any river or stream, lake or any

natural collection of water for the use of water of any of these sources for any existing or proposed canal after a date to be specified not earlier than three months from the date of such notification.

Clause 5 — This clause enables a Canal-officer to do things like entering on land, removing any obstruction, close any channel, etc., for the application of water notified under clause 4. It also empowers him to take with him or depute other person as he deems fit.

Clause 6 — This clause deals with making enquiries or examination and empowers a canal-officer to enter upon land, set up guages, etc., etc., and to exercise all powers for carrying out survey, etc., as if a notification under section 4 of the Land Acquisition Act, had been issued.

Clause 7 — This clause enables a canal officer or any person authorised by him to enter upon a land or building or water course to inspect or regulate use of water or management of canals. It also empowers him to measure the irrigated lands chargeable with the water rate.

Clause 8 — This clause deals with powers to enter upon land adjacent to a canal and take trees or other materials and carry out works required to prevent any accident apprehended or repair damage taking place to a canal.

Clause 9 — This clause deals with issue of a reasonable notice of urgency as brought out by clauses 6, 7 and 8 to the occupier of a building, court or garden, not receiving water from a canal and not adjacent to flood embankment, by the canal officer or a person authorised by him.

Clause 10 — This deals with providing means of crossing canals at suitable places for the convenience of the inhabitants of the adjacent land and with construction of suitable cross drainage works such that the natural drainage of the adjacent land is not obstructed by the canal.

Clause 11 — In case it appears any injury has taken place or is likely to take place to public health or public convenience or to any canal, or any land receiving irrigation from a canal because of obstruction of any river stream or natural drainage course, notification can be issued under this clause to prohibit formations of such obstruction or its removal, as the case may be. The section of the drainage course to be defined containing the obstruction will be treated as a drainage work as defined in section 2, under this clause.

Clause 12 — This clause empowers the canal officer to issue orders for removal of obstructions within a specified period.

Clause 13 — This clause empowers the canal officer for getting the obstruction removed or its modification done by a canal officer if the person ordered under clause 12 fails and recovers the expenses from the person by calling upon him or failing which as arrears of land revenue.

Clause 14 — This clause deals with preparation and execution of such schemes of drainage works by Government which are necessary for public health, improvement of proper cultivation or irrigation and also of flood protection and anti-river erosion works.

PART III

Clause 15 — This clause deals with determination of the need of construction of water courses and their alignment in any area. Sub-clause (i) deals with notification of intention of construction of water courses and sub-clause (ii) deals with determining a suitable alignment for the water courses and notifying on the marked out portions of lands indicating the village or villages in which the alignment lies.

Clauses 16 and 17 — Deal with acquisition of land for the purpose of construction of water courses. The provisions of the Land Acquisition Act, 1894 is applicable to all acquisitions made under this clause.

Clauses 18 and 19 — These clauses stipulate the obligations of users of water courses. Every user of water course has to maintain it in a fit state.

Clause 20 — This clause deals with construction of water courses in the area acquired under section 16.

PART IV

Clause 21 — This clause deals with regulation of water supply from a canal. The time of letting out water for irrigation, the period of supply, the quantity of supply and the areas to be supplied at different times can be notified for a specific term of years or for each year.

Clause 22 — This clause deals with stoppage of water supply from a canal to a consumer. The grounds on which such stoppage can be effected are listed thereunder.

Clause 23 — This clause deals with transferability of the agreement for the supply of water with the property for which the supply is given. This clause prohibits transfer of right to use the water by any user without the permission of canal officer.

Clause 24 — This clause deals with the regulation of cultivation. Under sub-clause (1) a canal officer can determine the areas of lands to be cultivated with different crops, subject to availability of water in the canal. An appeal lies to the Collector against an order passed under this clause.

Clause 25 — Under this clause the Government can prescribe the kind of crop to be grown in any particular irrigated area taking into account the water resources. When once the Government issues a notification prescribing a particular kind of crop growing of any other crop in the areas is punishable. Exception is made in respect of crops grown in the area independent of canal water.

PART V

Clauses 26 to 28 — Deal with payment of compensation for damage caused while exercising powers under the Act by authorities.

Clause 29 — Prescribes the Collector as the authority to whom an application for compensation under clause 28 should be preferred. Sub-clauses (1) and (2) describe the procedure for preferring claims and for determining compensation, if any, by the Collector. Sub-clause (2) also requires that compensation for all claims determined by the Collector should be approved by the Government.

Clause 30 — This clause enables persons aggrieved by the orders of the Collector under section 29 to prefer an appeal to the Administrative Tribunal, within ninety days.

Clause 31 — This clause makes all the compensations payable three months after the final award is made. Interest is also fixed for sums remaining unpaid after three months except if the non-payment is because of the negligence or refusal of the claimant to apply for or receive the amounts.

Clause 32 — This clause prescribes the Collector as the authority to determine abatement of revenue or interruptions of water supply under section 30.

PART VI

Clause 33 — This clause deals with the determination of rates for supply of canal water. Sub-clause (2) empowers revision of rates for any land receiving increased water supply. Sub-clause (3) deals with the fixation of liability for payment of water rates.

Clause 34 — This clause deals with unauthorized use of water by a person to whom water is supplied from a canal.

Clause 35 — This clause fixes liability when water runs to waste but the miscreants cannot be apprehended. Canal-officer is empowered to decide all such matters.

Clause 36 — This clause makes water charges for the unauthorized use recoverable in addition to penalties for such use or waste.

Clause 37 — This clause makes land deriving benefit by percolation or leakage of water from canal liable for charging water rates as if it is directly irrigated from the canal.

Clause 38 — This clause empowers levying of water rates for use of water percolating from the canal for non-irrigation purposes. Exception is made for exclusive use made for domestic purposes.

Clause 39 — This clause deals with preparation of a scheme showing the lands under the irrigable command of a newly constructed or improved or extended canal and also showing the betterment charges leviable on such lands.

Clause 40 — This deals with, under its sub-clause (1), publication of scheme prepared under section 39 and under sub-clause (2) with giving notice to the persons concerned and hearing their objections, if any, for inclusion of their land in the scheme and imposition of the betterment charges.

Clause 41 — This clause deals with procedure for holding inquiry when any person files an objection under section 40.

Clause 42 — Increase in value is determined by this clause and the betterment charges fixed at half this increase. Government is also required to notify the dates of construction and completion.

Clause 43 — This clause makes awards made under section 41 appealable to the Collector within sixty

days. Sub-clause (2) makes provisions of the Land Revenue Code applicable to such appeals.

Clause 44 — This clause empowers the Government to examine and modify or reverse the decisions of the Collector.

Clause 45 — This clause deals with the finality of the orders passed under section 41.

Clause 46 — This clause stipulates, that betterment charges leviable shall be the first charge on the land subject only to payment of Land Revenue.

Clause 47 — This clause enables the Government to prescribe the dates and mode of payment of betterment charges.

Clause 48 — This clause allows the owner to relinquish or exchange land in lieu of the payment of the betterment charges in favour of Government on such conditions as may be prescribed, if the land is free from encumbrances.

Clause 49 — This clause empowers levying of irrigation cess.

Clause 50 — This clause fixes the liability to pay irrigation cess and arrears for alienated or unalienated lands. Tenants are also liable subject to provisions of the Agricultural Tenancy Act, 1964. Sub-clause (2) provides for making cess recoverable from the occupant or superior holder, as the case may be, where the tenant was primarily liable and any other person in possession of the land in other cases. It also provides for facility of credit if the payer is not primarily liable.

Clause 51 — This clause deals with fixing rates at and periods for which irrigation cess is liable. Sub-clause (2) makes this fixation immune to questioning in court and prohibits increase in rates during the period so fixed.

Clause 52 — This clause makes irrigation cess leviable on the date on which the land revenue is leviable.

Clause 53 — Sub-clause (1) enables the Government to determine the mode and dates of payment of water rates. Sub-clause (2) stipulates that the water rates as also the unpaid betterment charges and irrigation cess can be recovered as arrears of land revenue. Other sums due to Government under the Act are also made recoverable as arrears of land revenue.

PART VII

Clause 54 — This clause describes the procedure for obtaining labour for works or repairs to canal when urgently required. It casts a duty on every able-bodied person residing in the locality to assist in such work or repair, if so required, on payment of wages.

Clause 55 — This clause makes it obligatory for Collector to prepare a list of all persons liable to be required for assistance and empowers him to add to or alter it.

Clause 56 — This clause casts a duty on the Canal Officer to report to Collector every order passed under section 54.

Clause 57 — Under this clause, appeals to Collector can be made by a person who does not accept amount under section 54. Decision of the Collector is final.

PART VIII

Clause 58 — This clause empowers Government to take over any private canal for maintenance in the interest of irrigation and recover all or part of the cost of maintenance from the persons benefited by water of such canal. Limitations are that an artificial reservoir owned by any land holder can be taken over only at his request or in public interest. In the latter case such compensation as may be awarded by the Collector will have to be paid.

PART IX

Clause 59 — This clause deals with declaration of any canal as a Second-class Canal whether it is constructed or maintained or controlled by Government or not and the procedure that has to be followed for issuing such declarations.

Three months period is to be given for submission of objections. Any artificial reservoir or water course supplied from such reservoir can also be declared. If the declaration is against the wishes of the owner, compensation will have to be paid.

Clause 60 — This clause requires a proclamation to be issued after issuing notification under sub-section (3) of section 59 specifying the source of supply, situation and limits of the canal, stating that the canal will come under the Irrigation Act. At least a period of three months should be allowed for letting claimants of rights in it state their nature of rights.

Clause 61 — This clause deals with framing of Record of rights by an officer of the rank of Mamlatdar indicating therein the nature of the canal, land applicable therefrom, customs or rule of irrigation, rights to water and conditions on which rights are enjoyed etc.

Clause 62 — This clause empowers a canal officer to enter any adjacent land and survey, demarcate and map the land. Sub-clause (2) empowers the canal officer to settle the record as he deems fit, if no sufficient evidence is forthcoming.

Clause 63 — This clause deals with power to revise the Record of rights.

Clause 64 — This clause deals with commutation of rights which cannot be exercised to the extent recorded, by payment to the holder of such right, a sum of money or by the grant of land and revise the Record of rights accordingly.

Clause 65 — This clause empowers Government to have right in surplus water available as a result of executing a work at its cost and apply the water as Government deems fit and revise the Record of rights accordingly.

Clause 66 — This clause requires publication of any Record of rights prepared or revised and describes the method of publication.

Clause 67 — By this clause entries in the record of rights are made relevant as evidence in any dis-

pute as to the matters recorded and presumed to be true until contrary is proved or a new entry is substituted.

Clause 68 — This clause deals with giving notice to the Collector by a court for a suit or proceeding involving an entry made in the Record of rights. Court has to make Government a party to suit if moved to do so by the Collector. Sub-clause (2) exempts Government from being a party to suit for anything done by Collector or canal-officer in the exercise of powers conferred. Sub-clause (3) limits time to one year for filing on any entry.

Clause 69 — This clause states the nature of repairs to be carried out by the person on whom the obligation to perform them is imposed by section 70.

Clause 70 — This clause deals with the incidence of obligation to perform the repairs as specified in section 69.

Clause 71 — This clause empowers to enforce rights and obligations by issuing notice in case of defaults. In the event of failure, the canal officer can discharge the obligation or restore the right and take other necessary steps. The expenses incurred on this account are recoverable as arrears of land revenue.

Clause 72 — This clause devolves it on village inspector to report failure to effect repairs specified in section 69.

Clause 73 — This clause protects public servant and other persons acting in good faith under the Act from legal proceedings in respect of anything done.

Clause 74 — This clause empowers the Government to make rules.

PART X

Clause 75 — This clause prohibits any person other than canal officer to interfere or divert any natural stream or to construct bund, weir or dam on any channel or stream above or below any water course.

Clause 76 — This clause prohibits any person to obstruct the proper functioning of cross drainage works, without written permission of the canal officer.

Clause 77 — Under this clause, it is made obligatory for owners to maintain irrigation work above any canal in a safe condition. The canal officer can ask the owner to bring the work to fit conditions, if danger is apprehended. If the owner fails to comply it within the specified time, the canal officer can carry out the repairs and the cost incurred is recoverable as arrears of land revenue. Sub-clause (4) makes orders of canal officer appealable to Collector for final decision.

Clause 78 — Under this clause, use of explosives is prohibited within one kilometer radius.

Clause 79 — This clause prohibits construction of walls within such distance from the canals as is specified, without the written permission of the canal officer.

Clause 80 — This clause prohibits any person other than canal officer or other authorised person from operating a sluice gate, regulator or flood gate of a reservoir or canal.

Clause 81 — Under this clause, plying of vessels or fishing in a reservoir or along a canal maintained or controlled by Government is allowed only with permission from Government or from an officer empowered in this behalf. It is subject to conditions and such fees as may be prescribed. For fishing in tank with achkat over two hundred hectares, permission can be granted by an officer only with the concurrence of the canal officer.

Clause 82 — This clause prohibits any person, other than the canal officer or any officer empowered from letting out water by cutting bund of a canal, constructing a sluice or outlet or any other similar contrivance.

Clause 83 — Under this clause, deposition of mining produce in or near any canal is prohibited so that it may not flow into the canal.

PART XI

Clause 84 — This clause deals with acts and omissions which are offences under the Act.

Clause 85 — Under this clause, if a person convicted under section 84 fails to remove the obstruction or repair the damage in respect of which conviction is made, the canal officer can get it removed or do repairs and the expenses on this account will be recoverable as arrears of land revenue from the person.

Clause 86 — This deals with punishment for abating an offence or for attempting to commit such offence. Punishment is as provided in this Act for such offence.

Clause 87 — This clause empowers a person employed on a canal to take into custody without a warrant and take to a Magistrate or to a police station, any person who wilfully damages, obstructs or fouls canal or interferes with water, without proper authority.

Clause 88 — Prosecution under other laws is also made permissible for offences committed under this Act and punishable under this Act.

Clause 89 — This clause declares all offences under this Act except those under clause (VII) and (VIII) of Section 84, as cognizable.

Clause 90 — By this clause, a person who gives information leading to detection of an offence or to the conviction of an offender can be rewarded from the fine recovered consequent to such information.

PART XII

Clause 91 — This clause declares the Collector as the appellate authority to whom an appeal against the orders of a canal officer can be preferred.

Clause 92 — This clause empowers an officer conducting any enquiry under the Act, to summon and examine witnesses, as if he is a Civil Court. The proceedings are also deemed to be judicial proceedings.

Clause 93 — This clause deals with the procedure of serving notices.

Clause 94 — Under this clause officer and servants of Governments are barred from certain proceedings for any act done or purporting to be done under this Act without the previous sanction of the Government or for acts done in good faith in the course of the execution of duties under this Act. The jurisdiction of Civil courts are barred in respect of any matter which has to be decided by any authority under this Act.

Clause 95 — This clause deals with procedure for taking action against companies for offences committed by them.

Clause 96 — Canal, reservoir or other collection of water vesting in Municipality is kept outside the application of this Act by this clause.

Clause 97 — This clause empowers Government to make rules for carrying out the provisions of this Act in respect of one canal or for canals in general.

Clause 98 — This clause repeals Diploma No. 1562 which is at present applicable only to the canals of Khandepar and of Paroda.

Financial Memorandum

The irrigation schemes are revenue earning schemes. No special establishment is required to enforce the legislation apart from what is required according to the yardstick of expenditure whether for construction or maintenance, which expenditure depends on the number of schemes found economically feasible and number of schemes actually taken up.

Government will receive revenue by way of water rates, irrigation cess and betterment levy and also by way of penalties imposed on the defaulters.

Memorandum of Delegated Legislation

Section 3 empowers the Government to delegate by Notification the Powers under the Irrigation Act to any subordinate authority subject to such orders as may from time to time be passed by the Government.

Further Sections 74 and 97 empowers the Government to frame rules to carry out the purposes of the Act.

All these delegations are of normal character.

Panaji,
20th September, 1973.

A. K. S. USGAONKAR
Minister for Irrigation

Assembly Hall,
Panaji,
21st September, 1973.

B. M. MASURKAR
Secretary to the Legislative
Assembly of Goa, Daman
and Diu.

Administrator's recommendation under Section 23 of the Government of Union territories Act, 1963.

In pursuance of sub-section (1) of Section 23 of the Government of Union territories Act, 1963, the Administrator of Goa, Daman and Diu has recommended to the Legislative Assembly of Goa, Daman and Diu the consideration of the Goa, Daman and Diu Irrigation Bill, 1973.

LA/B/7/1957/73

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 27th September, 1973 is hereby published for general information in pursuance of the provisions of Rule 127 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Highways Bill, 1973

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The Goa, Daman and Diu Highways Bill, 1973

(Bill No. 14 of 1973)

A BILL

to provide for the restriction of ribbon-development along highways, for the prevention and removal of encroachments thereon, for the construction, maintenance and development of highways, for the levy of betterment charges and for certain other matters connected therewith.

WHEREAS it is expedient to provide for the restriction of ribbon development along highways, for the prevention and removal of encroachments thereon, for the construction, maintenance and development of highways, for the levy of betterment charges and for certain other matters;

BE it enacted by the Legislative Assembly of Goa, Daman and Diu in the twenty-fourth Year of the Republic of India as follows:—

CHAPTER I

Preliminary

1. **Short title, extent and commencement.**— (1) This Act may be called the Goa, Daman and Diu Highways Act, 1973.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) This section shall come into force at once. The Government, may, by notification in the Official Gazette, direct that all or any of the remaining provisions of this Act, shall come into force in such area and on such date as may be specified in the notification:

Provided that the Government may, by notification issued in like manner, exclude any road or way or class of roads or ways situated in such area from the operation of all or any of the provisions of this Act.

2. **Definitions.**— In this Act, unless there is anything repugnant in the subject or context,—

(a) “animal” means any domestic or captive animal;

(b) “building” includes any erection of whatsoever material and in whatsoever manner constructed (including a farm building for agricultural purposes) and also includes plinths, doorsteps, walls (including compound walls and fences) and the like;

(c) “building line” means a line on either side of any highway or part of a highway fixed in respect of such highway or part by a notification under sub-section (1) of section 7;

(d) “control line” means a line on either side of a highway or part of a highway beyond the building line fixed in respect of such highway or part by a notification under sub-section (1) of section 7;

(e) “encroachment” means any unauthorised occupation of any highway or part thereof, and includes an unauthorised—

(i) erection of a building or any other structure, balconies, porches, projections, on or over or overhanging the highway;

(ii) occupation of a highway beyond the prescribed period, if any, for stacking building materials or goods of any other description, for exhibiting articles for sale, for erecting poles, awnings, tents, pandals, hoardings and other similar erections or for parking vehicles or stabling animals or for any other purpose, and

(iii) excavation or dumps of any sort made or extended on any highway or underneath such highway;

(f) “to erect” with its grammatical variations in relation to a building means to construct, reconstruct, extend or alter structurally a building;

(g) “excavation” in relation to any piece of land does not include any workings which do not pierce the surface of that piece of land; but includes wells and tanks;

(h) “Government” means the Administrator of the Union territory of Goa, Daman and Diu appointed under article 239 of the Constitution;

(i) “highway” means any road or way over which the public have a right of way or are granted access and which is declared to be a highway under section 3 and for the purposes of this Act and includes—

(i) any land acquired or demarcated with a view to construct a highway along it;

(ii) the slopes, berms, borrow-pits, foot-paths, pavements, and side, catch and boundary drains attached to such road or way;

(iii) all bridges, culverts, tunnels, causeways, carriageways and other structures, constructed on or across such road or way; and

(iv) all trees, fences, posts, boundary, furlong and mile stones, and other highway accessories and materials stacked on the road or way or any land appertement to such highway;

(j) “Highway Authority” means the authority appointed as such or to which the functions of such authority are entrusted under section 4;

(k) “highway boundaries” means the boundaries of a highway fixed in respect of such highway by a notification under sub-section (1) of section 7;

(l) “means of access” includes any means of access, whether private or public, for vehicles or for foot passengers and includes any street;

(m) “middle of highway” means the point half-way between the highway boundaries;

(n) “occupier” includes:—

(i) any person who for the time being is paying or is liable to pay to the owner rent or any portion of the rent of the premises in respect of which such rent is paid or is payable;

(ii) an owner living in or otherwise using his premises;

(iii) a rent-free tenant;

(iv) a licensee in occupation of any premises; and

(v) any person who is liable to pay to the owner damages for the use and occupation of any premises;

(o) “Official Gazette” means the Goa, Daman and Diu Government Gazette:

(p) "owner" means;—

(1) when used with reference to any premises, the person who receives the rent of the said premises or who would be entitled to receive the rent thereof if the premises were let and includes—

(i) an agent or trustee who receives such rent on account of the owner;

(ii) an agent or trustee who receives the rent of, or is entrusted with, or concerned for, any premises devoted to religious or charitable purposes;

(iii) a receiver, sequestrator or manager appointed by any court of competent jurisdiction; and

(iv) a mortgagee-in-possession.

(2) when used with reference to an institution or body corporate, the manager of such institution or body corporate.

(q) "prescribed" means prescribed by rules made under this Act;

(r) "railway administration" has the same meaning as in the Indian Railways Act, 1890; Central Act 9 of 1890

(s) "vehicle" includes a barrow, sledge, plough, drag and a wheeled conveyance of any description capable of being used on a highway;

(t) the expressions "land", "persons interested" and "persons entitled to act" used in this Act shall have the same meanings as the said expressions have in the Land Acquisition Act, 1894. Central Act I of 1894

CHAPTER II

Declaration of Highways, Highway Authorities and their Powers and Functions

3. Declaration of roads, ways or lands as highways.

— The Government may, by notification in the Official Gazette, declare any road, way or land to be a highway and classify it as—

- (i) a State Highway,
- (ii) a major district road,
- (iii) other district road, or
- (iv) a village road.

4. Appointment of Highway Authorities.— The Government may, by notification in the Official Gazette, appoint for the purposes of this Act or any of its provisions any persons or any authority to be a Highway Authority for all the highways in the Union territory of Goa, Daman and Diu, or in parts of the Union territory or for any particular highway or highways therein, specified in the notification.

5. Powers and duties of Highway Authorities.— Subject to such conditions as may be specified in the notification appointing a Highway Authority and subject to the general or special orders of the Government, a Highway Authority shall exercise powers and discharge duties in accordance with the provisions of this Act for the restriction of ribbon development along highways, for the prevention and removal of encroachments and for all matters necessary and incidental to any or all of the above subjects. Also subject to the approval of the Government and to such general or special orders which

the Government may make in this behalf, it shall be lawful for a Highway Authority to undertake the construction, maintenance, development or improvement of highways.

6. Officers and servants of Highway Authority.

— For the purpose of enabling a Highway Authority to exercise the powers conferred and to discharge the duties imposed upon it by or under the provisions of this Act, the Government may appoint such officers and servants as it deems necessary to work under such Authority.

CHAPTER III

Restriction of Ribbon development

7. Powers to fix boundary building and control lines of highways.— (1) In any area in which the provisions of this Act have been brought into force, and

(i) where either any road, way or land has been declared to be a highway under section 3, or the construction or development of a highway is undertaken or proposed to be undertaken, and

(ii) the Government considers it necessary to fix, as respects such highway, the highway boundary, the building line or control line the Government may, by notification in the Official Gazette, fix, as respects such highway, the highway boundary, the building line and the control line:

Provided that, having regard to the situation or the requirements of a highway or the condition of the local area through which a highway passes, it shall be lawful for the Government to fix different building or control lines in respect of any highway, or portions thereof.

(2) Not less than sixty days before issuing a notification under sub-section (1) the Government shall cause to be published in the Official Gazette and in the prescribed manner in the village and at the headquarters of the taluka of the district in which the highway is situated a notification stating that it proposes to issue a notification in terms of sub-section (1), and specifying therein all the lands situated between the highway boundary and the control line proposed to be fixed under such notification and in the case of new works, also lands benefiting by the construction or development of the highway, as the case may be, together with a notice requiring all persons affected by such notification, who wish to make any objections or suggestions with respect to the issue of such a notification, to submit their objections or suggestions in writing to the Highway Authority or appear before such authority, within two months of the publication of the notification in the Official Gazette or within one month from the date of the publication of the notification in the village, whichever period expires later.

(3) The Highway Authority shall, after all such objections or suggestions have been considered or heard, as the case may be, and after such further inquiry, if any, as it thinks necessary, forward to the Government a copy of the record of its proceedings held by it together with a report setting forth its recommendations on the objections or suggestions.

(4) If, before the expiration of the time allowed by sub-section (2) for the filing or hearing of objections or suggestions, no objection or suggestion has been made, the Government shall proceed at once

to issue the notification under sub-section (1). If any such objection or suggestion has been made, the Government shall consider the record and the report referred to in sub-section (3) and may either —

(a) abandon the proposal to issue the notification under sub-section (1), or

(b) issue the notification under sub-section (1) with such modification, if any, as it thinks fit.

(5) In considering the objections or suggestions, the decision of the Government on the question of issuing the notification under sub-section (1) shall be final and conclusive.

8. Map to be prepared and maintained. — (1) Within two months from the date of publication of the notification under sub-section (1) of section 7 fixing the highway boundary, building line and control line with respect to any highway, the Highway Authority shall cause a map to be made of the area through which such highway passes and shall cause to be marked thereon the highway boundaries and building and control lines and any other particulars necessary for the purposes of this Act and within one month from the date of making any alteration or addition thereto cause the said map to be corrected and such map with the date indicated thereon of the last time when the same shall have been so corrected shall be kept in the office of the Highway Authority.

(2) Such map, which shall bear the seal of the Highway Authority shall be open to inspection.

(3) Copies of such map shall also be kept for inspection at such other places as may be prescribed.

9. Restrictions on buildings between highway boundary and building line and between building and control lines. — (1) Notwithstanding anything contained in any law, custom, agreement or instrument for the time being in force, on and after the appointed day, the following restrictions shall, subject to the provisions of this Act, be in force, that is to say, — No person shall, without the previous permission in writing of the Highway Authority, —

(a) upon any land lying between the highway boundary and the building line proposed to be fixed under sub-section (2), or fixed under sub-section (1) of section 7, as the case may be,

(i) construct, form or layout any means of access to, or from, a highway, or

(ii) erect any building, or

(iii) materially alter any existing building, or

(iv) make or extend any excavation, or

(v) construct, form or lay out any works; or

(b) upon any land lying between the building line and the control line proposed to be fixed under sub-section (2), or fixed under sub-section (1) of section 7, as the case may be,

(i) construct, form or layout any means of access to, or from, a highway, or

(ii) erect any building, or

(iii) materially alter any existing building;

(c) use any building or alter the use of any building already erected in a manner which, in the opinion of the Highway Authority, will, in any manner whatsoever, infringe any of the provisions of this Act or interfere with the use of a Highway adjoining the land on which such building is erected.

(2) Every person desiring to obtain such permission under sub-section (1) shall make an application in writing to the Highway Authority in such form and containing such information as may be prescribed in respect of the building, alteration, excavation, works or means of access, as the case may be, to which the application, relates.

(3) On receipt of such application, the Highway Authority, after making such enquiries as it may consider necessary, shall, by order in writing, either —

(a) grant the permission, subject to such conditions, if any, as may be specified in the order, or

(b) refuse to grant such permission

Provided that —

(i) permission under clause (a) of sub-section (1) to the making of any excavation or construction, formation or laying out of works in land for the purpose of repairing, renewing, enlarging or maintaining any underground sewer, drain, electric line, pipe, duct or other apparatus shall not be withheld nor be made subject to any conditions save such as may be necessary for securing that the sewer, drain, electric line, pipe, duct, or other apparatus shall be laid in such a manner and at such levels that the construction, maintenance, development or improvement of a road thereover will not be prevented or prejudicially affected thereby;

(ii) permission under clause (b) of sub-section (1) to the erection or alteration of a building or laying out any means of access to a highway which conforms to the requirements of public health, and welfare and of safety and convenience of traffic on the adjoining road shall neither be withheld nor made subject to unreasonable conditions:

Provided that in the case of means of access required for agricultural purposes such permission shall neither be withheld nor be made subject to any conditions save such as may be necessary for securing that the means of access shall be used for agricultural purposes only;

(iii) permission under clause (b) of sub-section (1) to the re-erection or alteration of a building which was in existence before the appointed day shall neither be withheld nor made subject to restrictions unless such re-erection or alteration involves any material alteration to the outside appearance of the building.

(4) When the Highway Authority refuses permission, the reasons therefor shall be recorded and communicated to the applicant:

Provided that nothing herein contained shall debar a person from making a fresh application after omitting therefrom the objectionable features communicated to him as aforesaid on account of which such permission was refused.

(5) If at the expiration of a period of three months after an application for such permission specifying the name and address of the applicant has been made to the Highway Authority, or such further period, not exceeding three months, as may have been notified by the Highway Authority, has elapsed and no decision has been notified in writing, posted or delivered to the applicant at that address, then (except as may otherwise be agreed in writing between the Highway Authority and the applicant) permission

shall be deemed to have been given without the imposition by the Highway Authority of any conditions.

(6) The Highway Authority shall maintain a register with sufficient particulars of all permissions given or refused by it under this section and the register shall be available for inspection free of charge by all persons interested and such persons shall be entitled to take extracts therefrom.

Explanation—For the purpose of this section, “appointed day” shall, with reference to any highway boundary, building line or control line, mean,—

(1) the day on which a notification is published in the Official Gazette under sub-section (2) of section 7 proposing to fix such highway, boundary, building line or control line, and

(2) if any modification is made in such highway boundary, building line or control line, the day on which the notification is published under sub-section (1) of section 7, fixing such highway boundary, building line or control line.

10. Appeal.—(1) If any applicant is aggrieved by any decision of the Highway Authority under section 9, withholding permission, or imposing any condition, he may appeal to the Government within thirty days from the date on which such decision was communicated to him.

(2) The Government may, after giving an opportunity to the applicant to be heard, make such order as it thinks fit upon the appeal and the decision of the Government shall be final.

11. Exemption for works in progress, etc.—(1) No restrictions in force under section 9 shall apply to the erection or making of a building or excavation or to the construction, formation or laying out, of any means of access or works begun before the appointed day referred to in section 9.

(2) No restrictions in force under section 9, except restrictions as to the construction, formation or laying out, of means of access, shall apply to any land forming part of a burial or cremation ground or other place for the disposal of the dead being land which has before the passing of this Act, been used for such purposes.

(3) No restrictions in force under section 9 shall apply to any excavation or works necessary in connection with any drains, ditches, or other drainage works for agricultural purposes or to any works necessary for the repair, renewal, enlargement or maintenance of any sewer, drain, electric line, pipe, duct, or other apparatus, constructed in or upon the land before the date on which the restrictions came into force or with the consent of the Highway Authority on or after that date.

12. Setting back of buildings to building line or control line.—Whenever any building or any part thereof erected before the appointed day referred to in section 9 lies between the building line and the middle of the Highway, the Highway Authority may, whenever any such building or part has either entirely or in greater part been taken down, burnt down or fallen down, by notice require such building or part when re-erected to be set back to the building line or control line.

13. Regulation or diversion of right of access to highway.—(1) The Highway Authority may, if it is considered essential in the interests of safety or convenience of traffic, regulate or divert any existing right of access to a highway across land lying between the control line and the highway boundary:

Provided that the existing right of access shall not be diverted until alternative access has been given.

(2) Where the existing right of access is diverted, the point at which alternative access is given to the Highway shall not be unreasonably distant from the existing point of access.

(3) The Highway Authority shall, by notification in the Official Gazette, publish the date on which the existing right of access has been diverted and alternative access has been given.

14. Powers of Highway Authority and officers and servants appointed under section 6 in respect of surveys.—For the purpose of carrying out any of the provisions of this Act, the Highway Authority and the Officers and servants appointed under section 6 may—

(a) enter upon, survey and take measurements and levels of any land;

(b) mark such levels, dig or bore into the sub soil of any land;

(c) demarcate the boundaries of the highway by planting stones or other suitable marks in different colours of a durable nature at intervals all along the highway in such a manner that the imaginary line joining such stones or marks shows the road boundary correctly;

(d) where there are bends or kinks on the road boundary, locate the stones or marks in different colours so as to give the correct configuration of the boundary if they are joined by straight lines;

(e) give consecutive numbers to such boundary stones or marks and maintain them on the ground as if they constituted part of the highway;

(f) lay out the building and control lines by placing marks in different colours and cutting trenches;

(g) if the survey cannot otherwise be made, or measurements of levels taken or boundaries marked and lines laid out, cut down and clear away any standing crops, trees, fence or jungle or any part thereof;

(h) do all other acts necessary in that behalf;

Provided that the Highway Authority shall not, except with the consent of the occupier thereof, enter or permit any of the officers or servants to enter any premises without previously giving such occupier at least forty-eight hours' notice in writing of its intention to do so.

15. Acquisition of land or right or interest in land.—(1) If at any time on the application of the Highway Authority the Government is satisfied that any land required for the purposes of a highway or any right or interest of any person in any land required for the said purposes should be compulsorily acquired or extinguished, as the case may be, it shall be lawful for the Government to publish a notification to that effect in the Official Gazette. Such

notification shall also be published in such other manner as may be prescribed.

(2) A notification so published shall be deemed to be a declaration that the land is needed, or as the case may be, the right or interest is required to be extinguished for the purpose of the highway; and such declaration shall be conclusive that the land is so needed, or the right or interest is so required to be extinguished.

16. Land required to be marked and measured. — The Highway Authority or any officer or servant authorised by the Highway Authority shall thereupon cause the land to be marked out. It shall also cause it to be measured and if no plan is made thereof, a plan to be made of the same.

17. Public Notice and other notices of such requirements for acquisition. — (1) The Highway Authority shall then cause a public notice to be given at convenient places on or near such land stating that the Government intends to take possession of the land, or, as the case may be, to extinguish any right or interest in the land and that claims to compensation for all interest in such land, or any right or interest in land to be extinguished may be made to such officer as the Highway Authority may designate.

(2) Such notice shall state the particulars of the land so needed or right or interest in land to be extinguished and shall require all persons interested in the land or in the right or interest to be extinguished to appear personally or by an agent before such officer as may be designated, at the time mentioned therein (such time not being earlier than fifteen days after the date of publication of the notice) and to state the nature of their respective right or interest in the land, or, as the case may be, in the right or interest to be extinguished and the amount and the particulars of their claims to compensation for such right or interest or both and their objections, if any, to the measurements made under section 16. The Highway Authority may, in any case, require such statement to be made in writing and signed by the party or his agent.

(3) The Highway Authority shall also serve notice to the same effect on the occupier of such land and on all such persons known or believed to be interested therein or to be entitled to act for persons so interested, as reside or have agents authorised to receive service on their behalf, within the district in which the land is situated.

(4) In case any person so interested resides, elsewhere, a notice shall be served in the manner provided in section 71.

18. Persons required to make statements regarding other persons having interest. — (1) The Highway Authority or the officer authorised by it may also require any such person to make or deliver to it or him at a time not being earlier than fifteen days after the date of the requisition, a statement containing, as far as may be practicable, the name of every other person possessing any interest in the land or in any part thereof, or, as the case may be, in any right or interest in land to be extinguished as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and of the nature of such interest, and of the rents and profits, if any received or receivable on account thereof in respect of three years next preceeding the date of such statement.

(2) Every person required to make or deliver a statement under this section or under section 17 shall be deemed to be legally bound to do so within the meaning of section 175 and 176 of the Indian Penal Code.

Central Act
45 of 1860

19. Taking possession of land. — (1) At any time after the publication of a notification under section 15, the Government may direct that the land specified in the notification shall be taken possession of, or as the case may be, the right or interest specified therein shall be extinguished from such date as may be specified in the direction.

(2) From such date the said land shall vest absolutely in the Government free from all encumbrances, or, as the case may be, such right or interest therein shall be extinguished.

CHAPTER IV

Prevention of unauthorised occupation of and encroachment on a Highway and removal of encroachment

20. Lands forming part of the highway deemed to be Government property. — All lands forming part of a highway which do not already vest in the Government shall, for the purpose of this Chapter, be deemed to be the property of the Government.

21. Prevention of unauthorised occupation of Highway. — (1) No person shall occupy or encroach on any highway within the highway boundaries without obtaining the previous permission in writing of the Highway Authority or an officer authorised in this behalf by the Highway Authority.

(2) The Highway Authority or an officer authorised by the Highway Authority in this behalf may, with due regard to the safety and convenience of traffic and subject to such conditions as may be imposed and such rules as may be prescribed by the Government and on payment of such rent or other charges as may be prescribed under such rules, permit any person; —

(i) to place a temporary encroachment on any highway in front of any building owned by him or make a temporary structure overhanging the highway or

(ii) to put up a temporary awning or tent, pandal or other similar erection or a temporary stall or scaffolding on any highway, or

(iii) to deposit or cause to be deposited building materials, goods for sale or other articles on any highway, or

(iv) to make temporary excavation for carrying out any repairs or improvements to adjoining buildings;

Provided that no such permission shall be deemed to be valid beyond the period of one year unless expressly renewed by the Highway Authority or the authorised officer.

(3) The permission so granted shall clearly specify the date upto which the person is authorised to occupy the highway, the purposes for which occupation is authorised and the exact portion of the highway permitted to be occupied, and shall also be accompanied by a plan or sketch of that portion of the highway, if necessary.

(4) The person in whose favour such a permission has been given shall produce the permit

for inspection whenever called upon to do so by the Highway Authority or an officer authorised under sub-section (1) and shall at the end of the period specified in the permit release the land occupied by him after restoring it to the same state as before the occupation by him.

(5) The Highway Authority or the officer issuing the permission shall maintain a complete record of all such permissions issued, and shall also cause a check-up to be made in every case at the expiration of the period upto which occupation has been authorised to ensure that the land has actually been vacated.

22. Power to cancel permit. — (1) The Highway Authority may cancel any permission granted under section 21 —

(a) if any rent or charge is not duly paid.

(b) if the purpose for which the permission was given has ceased to exist.

(c) in the event of any breach by the holder of such permission or any terms or conditions of such permission.

(d) if the land on which such encroachment has been made is required for any public purpose or such encroachment is causing impediment or danger to traffic.

(2) Where the permission has been cancelled under clause (b) or (d) of sub-section (1), any rent or charge paid in advance shall be refunded to the holder of such permission less the amount, if any, due to the Government.

23. Prevention of encroachment. — (1) When as a result of check of highway boundaries made or otherwise, it transpires that an encroachment has taken place on a highway, the Highway Authority or the officer authorised under sub-section (1) of section 21 shall serve a notice on the person responsible for the encroachment or his representative requiring him to remove such encroachment and restore the land to its original conditions before the encroachment within the period specified in the notice.

(2) The notice shall specify the land encroached upon and the time limit within which such encroachment shall be removed and shall also state that failure to comply within the specified period shall render the person liable to prosecution and also to summary eviction.

(3) If the encroachment is not removed within the time limit specified in the notice and no valid cause is shown for non-compliance, the Highway Authority or the authorised officer referred to in sub-section (1) may prosecute such person before the appropriate Magistrate for his having made or caused the encroachment and for his failure to remove it within the specified time.

(4) Where the encroachment is made for the purpose of exposing articles for sale, opening temporary booths for vending or other like purpose of a trivial nature, the Highway Authority or the authorised officer referred to in sub-section (1) may, with the help of the police, if necessary, have such encroachment summarily removed without issuing a notice as required by sub-section (1) or in lieu of removal of the encroachment, may give the person responsible for the encroachment option of executing a

lease in favour of the Highway Authority on payment of rent for the area encroached upon.

(5) When the encroachment is of a temporary nature and can easily be removed but is not such as can be described as trivial within the meaning of sub-section (4), the Highway Authority or the authorised officer referred to in sub-section (1), may, in addition to or in lieu of prosecuting the person responsible for the encroachment under sub-section (3), have the encroachment summarily removed with the assistance of the police, if necessary.

(6) Where the encroachment is of such a nature that its immediate removal is considered essential in the interests of safety of traffic on the highway or the safety of any structure forming part of the highway, the Highway Authority or the authorised officer referred to in sub-section (1) may, in addition to prosecution of the person under sub-section (3), either —

(i) have such protective work, as may be feasible at a reasonable cost, carried out so as to minimise the danger to traffic on the highway or

(ii) have the encroachment removed with the help of the police, if necessary.

24. Appeal against notice served under sub-section (1) of section 23. — Where the person on whom notice to remove an encroachment has been served under sub-section (1) of section 23 lays claim that the land in respect of which encroachment has been alleged in his property or that he has acquired a right over it by virtue of adverse possession or otherwise, he shall, within the time-limit prescribed in the notice for the removal of the encroachment, file an appeal before the Collector under intimation to the Highway Authority or the officer authorised under sub-section (1) of section 21, as the case may be. The Collector shall after due enquiry record his decision in writing and communicate the same to the appellant and the Highway Authority or such officer. The Highway Authority or such officer shall till then desist from taking further action in the matter.

25. Recovery of cost of removal of encroachment. — (1) Whenever the Highway Authority or the officer authorised under sub-section (1) of section 21 has under the provisions of section 23, removed any encroachment or carried out any protective work in respect of any encroachment, the expenditure involved shall be recovered from the person responsible for the encroachment in the manner hereinafter provided.

(2) A bill, representing the expenditure incurred shall be served by the Highway Authority or the authorised officer referred to in sub-section (1) on the person responsible for the encroachment or his representative with a direction to pay up the amount within a specified period to the Authority mentioned in the bill.

(3) The bill shall be accompanied by a certificate from the Highway Authority or the authorised officer referred to in sub-section (1) to the effect that the amount of expenditure indicated in the bill represents the charges incurred and such a certificate shall be conclusive proof that the charges had actually been incurred.

(4) The materials, if any, recovered as a result of the removal of any encroachment shall be handed

over to the person responsible for the encroachment on payment of the amount of the bill by him but in the event of his failure to pay up the amount within the specified period, the materials may be auctioned and after deducting the amount of the bill from the proceeds, the balance, if any, shall be made over to such person.

(5) If the proceeds of the auction sale do not cover the total amount billed for, the excess over the amount realised by the sale of materials, or if there are no materials to dispose of and the billed amount has not been paid by the person responsible for the encroachment within the specified period, the entire amount of the bill shall be recovered from such persons as an arrear of land revenue.

CHAPTER V

Compensation

26. Doing minimum damage in certain cases and compensation. — In the exercise of the powers under the following provisions by the Highway Authority or any officer or servant appointed under section (6) or any other person authorised by or under this Act by the Government, as little damage as can be, shall be done and compensation in the manner prescribed by or under this Act shall be paid to any person who sustains damage in consequence of the exercise of such powers, namely: —

- (a) the imposition of restrictions under section 9;
- (b) the setting back of any building or part thereof under section 12;
- (c) the regulation or diversion of any right of access to a highway under section 13;
- (d) the entry, survey, measurement and doing of any of the acts on any land under section 14;
- (e) the acquisition of any land or the extinguishment of any right or interest in the land under section 15;
- (f) the closure of any highway or part thereof under section 52.

27. Determination of amount of compensation by agreement. — The amount of compensation payable under section 26, the persons to whom it is to be paid and the apportionment of such amount among the persons interested therein shall be determined by agreement between the Highway Authority or any officer authorised by Government and the person or persons claiming interest therein.

28. Determination of amount of compensation in default of agreement. — (1) In default of any agreement under section 27, the Highway Authority or the officer authorised by the Government shall, subject to the provisions of this Act, after holding an enquiry make an award determining —

- (a) the true area of the land, if any, acquired,
- (b) the amount of compensation to be paid under section 26,
- (c) the apportionment, if any, of such compensation among all persons known or believed to be entitled thereto:

(2) In determining the amount of compensation, the Highway Authority or the

officer so authorised shall be guided by the provisions contained in section 23 and 24 and other relevant provisions of the Land Acquisition Act, 1894, subject to the modification that references in section 23 and 24 of that Act to the date of publication of the notification under sub-section (1) of section 4 thereof, were references to the date on which the declaration under section 15 of this Act is published; and the references to the time or date of publication of the declaration under section 6 of that Act were references to the date of publication of the declaration under section 15 of this Act.

Central Act
1 of 1894

29. No compensation if similar restrictions in force under any other law or if compensation already received. — No compensation shall be awarded —

(i) if and in so far as the land is subject to substantially similar restrictions in force under some other law which was in force on the date on which restrictions were imposed by this Act;

(ii) if compensation in respect of the same restrictions imposed under this Act or substantially similar restrictions in force under any other law has already been paid in respect of the land to the claimant or to any predecessor in interest of the claimant.

30. Compensation for refusal of permission to build not exceed difference between its value when it was refused and when it would have been granted. — When permission to erect any building has been refused under section 9 or 10, the amount of compensation shall not exceed the difference between the value of the land as determined by section 23 or 24 of the Land Acquisition Act, 1894 and the value which it would have had if the permission had been granted. In determining such value any restrictions to which the land is subject under any other law for the time being in force in regard to the right of person claiming compensation to erect a building on the land or otherwise to use, hold or dispose of the same shall be taken into consideration.

Central Act
1 of 1894

31. Compensation for diversion of access not to exceed cost of alternative access. — Where the right of access to a highway has been destroyed as a result of the diversion or closure thereof and an alternative access has been given, the amount of compensation shall in no case exceed the cost of laying a new means of access from the property of the claimant to such alternative route.

32. Compensation for cutting of standing crops, trees etc. — (1) At the time of an entry, survey or measurement or doing of any of the things under section 14, the officer making the entry, survey or measurement or doing any other thing shall pay or tender to any person entitled compensation for all necessary damage done as a result of such entry, survey measurement or execution of the work, including the cutting of standing crops, trees, or removal of temporary structures, if any, on the land. If the sufficiency of the amount so paid or tendered is disputed, the officer concerned shall at once refer

the dispute to the Highway Authority and the said Authority shall with the least practicable delay decide the dispute and pay the person entitled the amount determined as compensation. The decision of the Highway Authority shall be final.

(2) If at the time of taking possession of the land under section 19 there are any standing crops, trees, or temporary structures on the land, the Highway Authority shall pay or tender to the person entitled the amount of compensation of such standing crops, trees, or temporary structures. If the sufficiency of such amounts is disputed, the value of such crops, trees and temporary structures shall be taken into consideration in determining the amount of compensation for the land under section 28.

33. No compensation for unauthorised erections. — If any person has unauthorisedly erected, re-erected, or added or altered any building on any land which is acquired for the purpose of a highway, then any increase in the value of the land from such erection, re-erection, addition or alteration shall not be taken into account in estimating the value of the land.

34. No compensation for removal of encroachment. — No compensation shall be payable for the removal of any encroachment.

35. Reference against award of Highway Authority or authorised officer under section 28. — (1) Any person aggrieved by the award of the Highway Authority or the officer authorised under section 28 may, by a written application to the Highway Authority or such officer, as the case may be, require that the matter be referred to the Civil Judge within the limit of whose jurisdiction such land is situated.

(2) Any such application shall be made within six weeks from the date of the award, and shall be in such form as may be prescribed.

(3) The provisions of sections 5, 12 and 14 of the Limitation Act, 1963 shall apply to the computation of the time fixed for making the application under sub-section (2). Central Act
36 of 1963

(4) The Highway Authority or the officer authorised shall make the reference in such manner as may be prescribed.

36. Procedure and powers of the authorities empowered to decide references under sections 35 and 44. — (1) References under sections 35 and 44 shall be deemed to be proceedings within the meaning of section 141 of the Code of Civil Procedure, 1908 and in the trial thereof the authorities empowered to decide such references may exercise all the powers of a civil court under that Code. Central Act
5 of 1908

(2) The scope of the enquiry in a reference under section 35 or 44 shall be restricted to a consideration of the matters referred to the authorities mentioned in sub-section (1) in accordance with the provisions of this Act.

37. Superintendent of Police to enforce surrender or remove any encroachment. — If the

Highway Authority or any officer or servant is opposed or impeded in taking possession of any land or in executing any work or in removing any encroachment under this Act, the Highway Authority or officer or servant concerned shall apply to the Superintendent of Police or such Police Officer as the Government may empower in this behalf, and the Superintendent or the officer so empowered shall enforce the surrender, removal or execution as the case may be.

38. Decisions of authorities under sections 35 and 44 to be enforced as decrees of civil court. — The decisions of the authorities empowered to decide references under section 35 and 44 shall be enforceable as a decrees of a civil court.

39. Payment of compensation awarded. — (1) On the determination of compensation by agreement under section 27, or

(2) on the making of an award under section 28 or

(3) if a reference is made under section 35 against such award, after the decision of the Authority under that section,

the Highway Authority shall make the payment of the compensation awarded to the person entitled thereto in accordance with the agreement, its award or the decision of the authority empowered to decide references under section 35, as the case may be. The provisions of sections 31 to 34 (both inclusive) of the Land Acquisition Act, 1894, shall *mutatis mutandis*, apply to such payment. Central Act
1 of 1894

40. Adjustment of Payment. — All payments due to be made to any person by way of compensation by the Highway Authority under this Act shall, as far as possible, be made by adjustment in such person's account regarding betterment charges, if any, due from such person under Chapter VI.

CHAPTER VI

Levy of Betterment Charges

41. Notice to owners and persons interested. — Where any work which the Highway Authority is empowered to undertake by or under the provisions of this Act is undertaken, the officer authorised by the Government in this behalf shall give notice to the persons known or believed to be the owners or interested in the lands benefited by such work requiring them to appear before him either personally or by an agent at a time and place therein mentioned (such time not being earlier than 30 days from the date of notice) to their objections, if any, to the imposition and recovery of betterment charges on such lands:

Provided that no such notice shall be given unless the Collector with the previous sanction of the Government has declared that the value of such lands is likely to increase or has increased by reason of the construction of such work.

42. Inquiry and order. — On the date fixed under section 41 or on such other date to which the inquiry may be adjourned the officer authorised under section 41 shall, after holding a formal inquiry and after hearing the objections, if any,

stated by the persons as required by notice under section 41, make an order. The order shall specify —

(a) the lands benefited by the construction of the work.

(b) the increase in the value of such lands by the proposed construction;

(c) the amount of the betterment charges leviable on each of the said lands;

(d) the date from which such betterment charges shall be leviable;

Provided that no betterment charges shall be leviable in respect of any land —

(a) which is unsuitable for development as a building site, or

(b) which is situate beyond a distance of two hundred metres from the middle of the highway on either side.

43. Increase in value and betterment charges. — The increase in value on account of the construction of such work shall be the amount by which the value of the land on the date of the completion of the proposed work is likely to exceed or has exceeded the value of the land on the date of the commencement of the said work and the betterment charges shall be one-half of such increase in value.

Explanation. — For the purpose of this section, the Government shall, by notification in the Official Gazette specify —

(a) the date of commencement of the construction of any work.

(b) the date of completion of such work.

44. Reference against order of authorised officer under section 42. — (1) Any person aggrieved by the order fixing the betterment charges may, by a written application to the officer authorised under section 41, require that the matter be referred to the Civil Judge (Senior Division).

(2) Any such application shall be made within six weeks from the date on which the order of the officer referred to in sub-section (1) was communicated to such person and shall be in such form as may be prescribed.

(3) The provisions of sections 5, 12 and 14 of the Limitation Act, 1963, 36 of 1963 shall apply to the computation of the time fixed for reference under sub-section (2).

(4) The officer authorised under section 41 shall make the reference in such manner as may be prescribed.

45. Finality of order fixing betterment charges and of decision on reference. — The order fixing the betterment charges made under section 42, subject to a reference to the authority specified in section 44 and the decision of such authority on such reference shall be final.

46. Betterment charges to be first charge on land next to land revenue. — From the date specified in the order fixing the betterment charges as the date from which such charges shall be leviable, or from

such date as may be otherwise specified by the authority specified in section 44 as the date from which such charges shall be leviable, the betterment charges recoverable in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the Government thereon, be a first charge on the land in respect of which such betterment charges are leviable.

47. Payment of betterment charges. — The betterment charges shall be payable on the date fixed under the rules made by the Government under section 72.

Provided that the owner of the land on which such charges are imposed may execute an agreement in favour of the Government agreeing to pay the amount of such charges by annual instalments together with interest at such rate and within such period as may be prescribed.

48. Relinquishment of an exchange or land in lieu of payment of betterment charges. — Notwithstanding anything contained in section 47, the Government may allow the owner of the land on which the betterment charges may be payable to relinquish the whole or any part of the land or to deliver it in exchange in lieu of payment of the charges, in favour of the Government on such conditions as may be prescribed.

Provided that no such relinquishment or exchange shall be permitted unless the land is free from encumbrances.

CHAPTER VII

Supplemental provisions to secure safety of traffic and prevention of danger to Highways

49. Prevention of danger arising from obstruction of view etc., of persons using any highway. — (1) Whenever the Highway Authority is of the opinion that it is necessary for the prevention of danger arising from obstruction of the view of persons using any highway, or from distraction of attention of such persons especially at any bend or corner of the highway, it may, save as otherwise provided in section 11, serve a notice upon the owner or occupier of land alongside or at the bend or corner of such highway to alter within such time and in such manner as may be specified in the notice, the height or character or any existing wall (not being a wall forming part of a permanent structure) fence, hedge, tree, advertisement post, bill board or any other object thereon, so as to cause it to conform with any requirements specified in the notice.

(2) If any person upon whom a notice has been served under sub-section (1) objects to comply with any requirement of such notice, he may, within one month of its receipt, send to the Highway Authority his objection in writing stating the grounds thereof.

(3) The Highway Authority shall, within one month of the receipt of the objection, consider the grounds advanced and shall, by order in writing, either withdraw the notice or amend or confirm it.

(4) If a person is aggrieved by an order issued by the Highway Authority under sub-section (3) he may prefer an appeal within 15 days from the date when such order was communicated to him, to the Collector whose decision in the matter shall be final.

(5) If any person fails to comply with the notice served on him under sub-section (1) as amended or confirmed, as the case may be, under sub-section (3), the Highway Authority may take action to alter the object causing obstruction of view or distraction of attention at its own expense, and such expenditure shall be recovered from such person in accordance with the provisions of section 25, without prejudice to any other action which may be taken against him.

50. Highway Authority to regulate traffic when highway declared unsafe. — If at any time it appears to the Highway Authority that any highway in its charge or any portion thereof is or has been rendered unsafe for vehicular or pedestrian traffic by reason of damage or otherwise, it may, subject to such conditions as may be prescribed in this behalf, either close the highway or the portion of it to all traffic or to any class of traffic, or regulate the number and speed or weight of vehicles using the highway.

51. Prohibition of use of heavy vehicles on certain highways. — Where the Highway Authority is satisfied that any highway or a portion thereof, or any bridge, culvert or causeway built on or across any highway is not designed to carry vehicles of which the laden weight exceeds such limit as may be fixed by the Highway Authority in this behalf, it may, subject to such conditions as may be prescribed, prohibit or restrict the plying of such vehicles on or over such highway or such part of the highway or such bridge, culvert or causeway.

52. Procedure to be followed when Highway Authority desires permanently to close any highway. —

(1) Where, in exercise of the powers conferred on it by section 50, the Highway Authority desires permanently to close down any highway or part thereof, it shall give notice of its intention so to do in the Official Gazette. The notification shall also be published in at least two newspapers, one of which, shall be in the spoken language of the place in which the highway is situated.

(2) The notice shall indicate the alternative route, if any, which is proposed to be provided or which may already be in existence, and shall also invite objections, if any, to the proposal to be submitted within such time as may be specified.

(3) The Highway Authority shall finalise its proposal to close down any highway or part of it after considering the objections, if any, received within the specified time and shall submit the final proposal to the Government for approval together with such objections as may have been received against the proposal.

(4) The Government may either approve the proposal, with or without modifications, or reject it.

(5) When the Government has approved the proposal it shall publish its orders in the Official Gazette.

(6) When the orders of the Government have been published in the Official Gazette, the Highway Authority shall arrange for further publicity to be given to the orders in at least two newspapers one of which shall be in the spoken language of the place in which such highway is situated and the highway or part thereof shall then be closed.

(7) Whenever any highway or any part thereof has been so closed, reasonable compensation shall be paid to every person who was entitled, otherwise than as a mere member of the public, to use such highway or part thereof as a means of access to or from his property and has suffered damage for such closure.

53. Consent of Highway Authority required to do certain acts on highway. — (1) Notwithstanding anything contained in any other enactment for the time being in force but subject to the provisions of section 73, no person other than the Highway Authority or any person authorised by it shall construct or carry any cable, wire, pipe, drain, sewer or channel of any kind through, across, under or over any highway, except with the permission in writing of the Highway Authority.

(2) In giving its consent, the Highway Authority may impose such conditions as it may deem to be necessary, and may also impose a rent or other charge for any land forming part of the highway occupied by or applied to the proposed work.

(3) If any person constructs or carries out any work in contravention of sub-section (1), the Highway Authority may arrange for the removal of such work and restoration of the highway to its former condition in accordance with the provisions of section 23 as if the work constituted an encroachment on the highway and such expenses as the Highway Authority may incur for this purpose, shall, without prejudice to any other action that may be taken against such person, be recovered from him in accordance with the procedure provided in section 25 in so far as that procedure is applicable.

54. Prevention and rectification of damaged highway. — (1) No person shall wilfully cause, or allow any vehicle or animal in his charge to cause any damage to any highway.

(2) Where in contravention of sub-section (1) any damage has been caused to any highway, the Highway Authority shall have the damage repaired and the expenses involved shall, without prejudice to any other action that may be taken against the person responsible for the contravention of sub-section (1) be recovered from him in accordance with the procedure provided in section 25 in so far as that procedure is applicable.

CHAPTER VIII

Penalties

55. Disobedience of orders, instructions and refusal to give information, etc. — Whoever wilfully disobeys any direction lawfully given by any person or authority empowered under this Act to give such direction, or obstructs any person or authority in the discharge of any functions that such person or authority is required or empowered under this Act to discharge, or, being required by or under this Act to supply any information, withholds such information or gives such information which he knows to be false or which does not believe to be true shall, on conviction, be punished with fine which may extend to two hundred rupees.

56. Contravention of restrictions relating to access or erecting a building, etc. — Whoever erects, alters or extends any building, or makes any excavation, or constructs any means of access to or from a

highway or does any other work in contravention of the provisions of section 9 shall, on conviction, be punished —

(a) with fine which may extend to five hundred rupees, and

(b) with further fine which may extend to one hundred rupees for each day after such conviction, during which the offending structure or work is not removed, demolished or cleared and the site not restored to its original conditions.

57. Unauthorised occupation of highway. — Whoever —

(a) occupies or makes any encroachment on any highway in contravention of the provisions of sub-section (1) of section 21, or

(b) fails to comply with the notice served on him under sub-section (1) of section 23 for no valid reason —

shall on conviction be punished —

(a) for a first offence with fine which may extend to two hundred and fifty rupees.

(b) for a subsequent offence in relation to the same encroachment with fine which may extend to five hundred rupees plus a further fine not exceeding fifty rupees per day on which such occupation of the highway or encroachment continues.

58. Causing damage to highways. — Whoever in contravention of sub-section (1) of section 54 wilfully causes, or allows any vehicle or animal in his charge to cause any damage to any highway, shall, on conviction, be punished with fine which may extend to one thousand rupees.

59. General provision for punishment of offences. — Whoever contravenes any provision of this Act or of any rule or order made thereunder shall, if no other penalty is provided for the offence under this Act, on conviction, be punished —

(a) for a first offence with fine which may extend to fifty rupees,

(b) for a subsequent offence with fine which may extend to two hundred rupees.

60. Power to compound offences. — Any offence committed under this Act may be compounded by the Highway Authority and if any proceedings have been instituted against any person in any criminal court, then on the terms of the compromise being carried out, the composition shall be held to amount to an acquittal and in no case shall any further proceedings be taken against such person or any property of such person with reference to the same facts.

61. Powers of revision of Government. — The Government may at any time call for and examine the records relating to any order passed or proceeding taken under this Act by the Highway Authority or any officer subordinate to the Highway Authority for the purpose of satisfying itself as to the legality or correctness of such order or proceeding and may pass such order in preference thereto as it thinks fit:

Provided that no order shall be modified, annulled or reserved unless notice has been served on the parties interested and opportunity given to them for being heard.

CHAPTER IX

Miscellaneous

62. Powers and duties of police. — Every police officer shall forthwith furnish information to the nearest Highway Authority, or the nearest officer subordinate to the Highway Authority of any offence coming to his knowledge which has been committed against this Act, or any rule made under this Act, and shall be bound to assist the Highway Authority and its officers and servants in the exercise of their lawful authority.

63. Duties of village officials. — Every village headman, village accountant, village watchmen or other village official by whatever name called, shall forthwith inform the nearest police station or the nearest Highway Authority, whenever he becomes aware that any survey mark or any boundary mark of any highway or any mark showing the building or control line determined in respect of a highway has been destroyed, damaged, removed, displaced or otherwise tampered with, or that any damage to any highway or encroachment on any highway has been made.

64. Power to utilise highway for other than road purposes. — The Highway Authority may utilise temporarily for other than road purposes land forming part of a highway, which is not immediately required for the passage of traffic, and dispose of the produce of such land.

65. Summary eviction. — Any person wrongfully occupying any land, —

(a) which is a part of a highway, and

(b) the occupation of which contravenes any of the provisions of this Act and the said provisions do not provide for the eviction of such person,

shall be summarily evicted by the Collector and such eviction shall be made in the following manner, namely: —

(i) by serving a notice on the person or persons in possession requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land, and

(ii) if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same; and

(iii) if the Officer removing any such person shall be resisted or obstructed by any person, the Collector shall hold a summary inquiry into the facts of the case, and if satisfied that the resistance or obstruction still continues, may, without prejudice to any proceedings to which such person may be triable under any law for the time being in force for the punishment of such resistance or obstruction, issue a warrant for the arrest of the said person, and on his appearance send him with a warrant for imprisonment in the civil jail of the district for such period not exceeding thirty days, as may be necessary to prevent the continuance of such obstruction or resistance.

66. Inquiries to be held summarily. —

(1) The Highway Authority or the officer authorised by Government in this behalf shall, if he desires to make any inquiry for the purposes of this Act, make the inquiry in the manner provided for holding a summary inquiry under the Goa,

Daman and Diu Land Revenue Code, 1968, and all the provisions contained in the said Code relating to the holding of a summary inquiry, shall, so far as may be, apply.

9 of 1969

(2) The Highway Authority and the officer authorised by the Government or the Highway Authority under this Act shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers under the Goa, Daman and Diu Land Revenue Code, 1968.

9 of 1969

67. Registration of map made under section 8 not required.—(1) Nothing in the Registration Act, 1908, shall be deemed to require the registration of map made under section 8.

Central Act
16 of 1908

(2) All such maps shall, for the purposes of section 49 and 50 of the Registration Act, 1908, be deemed to have been and to be registered in accordance with the provisions of that Act:

Central Act
16 of 1908

Provided that the maps shall be accessible to the public in the manner prescribed.

68. Certain persons to be public servants.—The Highway Authority, the officers and other persons authorised or appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Central Act
45 of 1860

69. Bar of jurisdiction.—No Civil Court shall have jurisdiction to settle, decide or deal with any question which is by or under this Act required to be settled, decided or dealt with by the Highway Authority, the Collector, an officer or person authorised under this Act, any Authority under section 35 or section 44 or the Government.

70. Protection of persons acting in good faith and limitation of suit or prosecution.—(1) No suit, prosecution or other legal proceedings shall be instituted against any public servants or officer or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act, or the rules or orders made thereunder.

(2) No suit or prosecution shall be instituted against any public servant or officer or person duly authorised under this Act, in respect of anything done or intended to be done under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

71. Services of notices and bills.—Every notice or bill issued or prepared under this Act, may be served or presented, —

(a) by delivering or tendering it or sending it by post to the person to whom it is addressed, or to his agent, or

(b) if such a person or his agent is not found then by leaving it at his usual or last known place of abode or by delivering or tendering

to some adult male member of his family or by causing it to be fixed on some conspicuous part of the building or land, if any, to which it relates.

(2) Where a notice under this Act is required to be served upon an owner or occupier of a building or land, it shall not be necessary to name the owner or occupier, and the service thereof may be effected either —

(a) by delivering or tendering the notice or sending it by post to the owner or occupier or if there be more owners or occupiers than one, to any one of them, or

(b) if no such owner or occupier is found, then by giving or tendering the notice to an adult male member or servant of his family or by causing the notice to be fixed on some conspicuous part of the building or land to which the same relates.

(3) Whenever the person to whom a notice or bill is to be served is a minor, service upon his guardian or upon an adult male member or servant of his family shall be deemed to be service upon the minor.

72. Power to make rules.—(1) The Government may, by notification in the Official Gazette, and subject to the condition of previous publication, make rules to carry out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Government may make rules for all or any of the following matters:—

(a) the manner in which the notification may be published in the village and at the headquarters of the taluka, tahsil or mahal under sub-section (2) of section 7;

(b) the other places at which copies of the map may be open to inspection under section 8;

(c) the form of application and its contents under sub-section (2) of section 9;

(d) the other manner of publishing the notification under section 15;

(e) the conditions on which and the amount of rent or charge on payment of which encroachments may be made on a Highway;

(f) the manner in which a reference shall be made under section 35 or 44;

(g) fixation of the date on which the betterment charges shall be payable under section 47 and instalments together with the rate of interest and the period within which such instalments shall be paid under the proviso to the said section;

(h) the conditions on which any land may be relinquished or delivered in exchange in favour of the Government under section 48;

(i) conditions subject to which any highway or portion of it may be closed to traffic or any class of traffic or the number and speed or weight of vehicles using the highway may be regulated under section 50;

(j) conditions subject to which plying of vehicles may be prohibited under section 51

(k) the prohibition of loading or unloading of goods or passengers on a highway

distraction of their attention and the prevention of annoyance, danger or injury to the public;

(l) the prevention of obstruction, encroachment and nuisances on or near and of damages to highways;

(m) the proper maintenance of boundary marks demarcating highway boundaries and building and control lines;

(n) the prescription of various forms of applications required to be made and the forms of notices and bills required to be served on persons, the charges to be made for the supply of copies of maps, and the rent or other charges to be imposed or levied under the provisions of this Act;

(o) the general guidance of the Highway Authority in the discharge of its functions under this Act;

(p) regulation or diversion of existing rights of access;

(q) any other matter which is to be or may be prescribed;

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly of Goa, Daman and Diu while it is in session for a total period of thirty days, which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Assembly agrees in making any modification in any such rule or the Assembly agrees that the rule should not be made, the rule shall thereafter have effect, only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

73. Savings.— (1) Subject to the provisions of this section, nothing in this Act shall affect —

(a) the rights of any local authority to make any excavation for the purpose of laying, making, altering, repairing or renewing any sewer, drain, water course or other works; or

(b) the rights of any authority appointed under any law for the time being in force for gas or water, electricity, railways, tramways, or trolley vehicles to erect any support or make any excavation for the purpose of laying, making, altering, repairing or renewing any main pipe, sluice, weir, electric line, duct, drain or other apparatus; or

(c) any land belonging to a railway administration or belonging to or used by a person holding a licence or sanction for the generation, transformation or distribution of electricity under the Indian Electricity Act, 1910, when such land is held or used by the railway administration or such person, as the case may be, for the purpose of the railway or for generation, transformation or distribution of electricity, except in so far as they may consent thereto; or

Central Act
9 of 1910

(d) any land within the limit of a cantonment or a port declared by or under any law made by Parliament or existing law to be a major port;

(e) any land within the jurisdiction of a local authority under the administrative control of the Central Government,

Provided that —

(i) any restrictions in force under section 9 as to construction, formation or laying out of means of access to, or from, any road, shall without any such consent as aforesaid, extend to any such land as it specified in clause (c) in so far as the restrictions relate to means of access over or under such land to, or from, land other than land so specified; and

(ii) any consent required for the purposes of this section shall not be unreasonably withheld and the question whether or not the consent so required is unreasonably withheld shall be determined by the Government whose decision on the question shall be final.

(2) Nothing in this Act shall affect any powers and duties of the telegraph authority under the provisions of the Indian Telegraph Act, 1885.

Central Act
13 of 1885

74. Provisions of this Act or rules to prevail over inconsistent provisions in other laws.— Save as provided in section 73, the provisions of this Act or rules made thereunder in regard to any matter dealt with hereby shall prevail over the provisions of any other law made by the Legislative Assembly of Goa, Daman and Diu or any law which the said Legislature is competent to make or to amend, in so far as such law is inconsistent with the said provisions or rules, and such law to the extent of such inconsistency shall cease to apply or shall not apply to any such matter.

75. Buildings and control lines along National Highways and levy of betterment charges.— For the avoidance of doubt it is hereby declared that nothing in this Act shall apply to highways which are or have been declared by or under any law made by Parliament to be national highways:

Provided that if any highway is declared to be a national highway under the National Highways Act, 1956; it shall be lawful for the Government with the prior approval of the Central Government, to fix the building and control lines for different portions of the said highway under section 7 or to levy betterment charges under section 42 on lands the value of which has increased by reason of the construction or proposed construction of such highway and thereafter the provisions of this Act in so far as they apply to the restrictions on buildings between the highway boundary and the building line or between the building line and the control line and other provisions relating to such building and control lines or as the case may be, the provisions of this Act relating to the levy of betterment charges shall, *mutatis mutandis*, apply.

Central Act
48 of 1956

Statement of Object and Reasons

In this territory there is no law in force for classification of roads into:

1. State Highway
2. Major district roads
3. Ordinary district roads and
4. Rural roads.

It is necessary to have a legislation for this purpose so that Roads in this territory could be classified and also to control the building activities along the roads by prescribing the building control line. It is necessary to control building activities along the roads, because if proper distances are not maintained at the time of construction of buildings, later on, for expanding the roads acquisition of lands and also buildings in addition to the lands would be involved. This will not only involve heavy expenditure but also cause dislocation to the persons residing in the building erected along the roads. For these reasons, it is necessary to control building activities along the roads and hence the instant legislation.

The Bill has been drafted on the lines of the Bombay Highway Act, 1955 (LV of 1955) which is in force in the State of Maharashtra.

CHAPTER I

Clause 1.— Deals with short title, extent and commencement of the Act. The Act extends to the whole of the Union territory. This clause comes into force at once and the Government has been empowered to bring all or any of the remaining provisions of the Act in force or exclude any or all provisions of the Act in such area and on such date as may be specified in the notification.

Clause 2.— Deals with definitions. It defines various terms used in the Act.

CHAPTER II

Clause 3.— The Government is empowered to declare any road, way or land to be a highway and classify it.

Clause 4.— This clause empowers the Government to appoint a single Highway Authority for all the Highways in the Union territory or separate authority for parts of the Union territory or for any particular Highway.

Clause 5.— This clause empowers the Highway Authority to exercise such powers as are necessary for restricting ribbon development along highways and matters connected therewith.

Clause 6.— This clause empowers the Government to appoint officers and servants to assist the Highway Authority.

CHAPTER III

Clause 7.— Sub-clause (1) empowers the Government to fix in respect of any Highways, the Highway boundary, the building line and control line. It also empowers the Government to fix different building or control lines in respect of any Highway or portions thereof.

Sub-clauses (2), (3), (4) and (5) describe the procedures to be adopted while issuing the notification for fixing the building and control lines for different Highways.

Clause 8.— Casts a duty on the Highway Authority to prepare a map showing highway boundaries, building and control lines and also stipulates that such maps shall be kept for inspection.

Clause 9.— Deals with restrictions on construction and reconstruction of buildings between Highway boundary and building line and between building and control lines and also procedures to be adopted for obtaining permission of Highway Authority before erecting any building etc.

Clause 10.— Provides for appeals against the orders of the Highway Authority passed under section 9.

Clause 11.— Deals with exemptions from restrictions on building construction etc. under section 9 for works in progress before the appointed day.

Clause 12.— Stipulates that whenever any structure between the building line and middle of Highway which was erected before the appointed day is taken down, burnt down or fallen down shall be set back to the building line or control line when it is restored.

Clause 13.— Empowers the Highway Authority to regulate or direct any existing right of access to a highway between the control line and highway boundary and explains the procedures to be followed.

Clause 14.— Empowers the Highway Authority and other Officers to enter any land for purpose of Survey etc. It also stipulates that at least forty-eight hours notice in writing should be given by the Highway Authority before entering any premises.

Clause 15.— Deals with the acquisition of land or right or interest in land for the purpose of the Highway and the procedures to be adopted regarding such acquisition.

Clauses 16, 17, 18 and 19.— Deal with the procedures to be followed before acquisition of land.

CHAPTER IV

Clause 20.— Stipulates that all lands forming part of a Highway, which do not already vest in Government, shall be deemed to be the property of the Government.

Clause 21.— Deals with the encroachment on Highways and powers of the Highway Authority in this regard.

Clause 22.— Authorises the Highway Authority to cancel a permit for temporary encroachment, granted under clause 21 under certain circumstances.

Clause 23.— Deals with the power of the Highway Authority regarding the prevention of encroachment on Highways.

Sub-clause (3) empowers the Highway Authority to prosecute a person causing the encroachment and for his failure to remove it within the specified time, when so directed by the Highway Authority.

Sub-clause (4) authorises the Highway Authority to remove summarily the encroachments made for the purpose of sale of articles and other purposes of a trivial nature if the person responsible refuses or fails to execute a lease in favour of such authority.

Sub-clause (5) authorises the Highway Authority to summarily remove a temporary, easily removable, non trivial encroachment in addition to or in lieu of prosecuting the person responsible.

Sub-clause (6) empowers the Highway Authority, in case of an encroachment whose immediate removal is considered essential, in addition to prosecution of such person to undertake such protective work so as to minimise the danger to traffic or to remove such encroachment.

Clause 24. — This clause allows a person on whom a notice to remove encroachment has been served under section 23 (1) to appeal to the Collector against such notice.

Clause 25. — Deals with the procedure to be followed for recovery of cost of removal of encroachment or cost of any protective work undertaken under section 23.

CHAPTER V

Clause 26. — Stipulates that compensation shall be paid to any person who sustains damage in consequence of the exercise of powers conferred under the Act on Highway Authority.

Clause 27. — This clause requires that the amount of compensation shall be determined by agreement between the Government and the persons claiming interest therein.

Clause 28. — This clause deals with the determination of amount of compensation in default of agreement under section 27.

Clause 29. — This clause states that no compensation shall be awarded if similar restrictions are in force under any other Law or if compensation is already received.

Clause 30. — This clause prescribes that when permission to erect any building has been refused, amount of compensation should not exceed the difference between the value of land as determined by section 23 or 24 of Land Acquisition Act 1894 and the value which it would have had if the permission has been granted.

Clause 31. — This clause stipulates that the compensation for diversion of access not to exceed cost of alternative access.

Clause 32. — This clause provides for compensation for standing crops, trees etc., and in this regard the decision of the Highway Authority shall be final.

Clause 33. — This clause states that no compensation shall be paid for unauthorised erections.

Clause 34. — This clause stipulates that no compensation is payable for removal of any encroachment.

Clause 35. — This clause allows any person aggrieved by the award of the Highway Authority to seek reference to the Civil Judge.

Clause 36. — Deals with the procedure and powers to be followed by the authorities empowered to decide references under section 35 and 44.

Clause 37. — This clause empowers the Commissioner of Police or Superintendent of Police to enforce surrender or remove any encroachment when the Highway Authority is obstructed in its duties.

Clause 38. — States that the decisions of the authorities under Section 35 and 44 to be enforced as decrees of a Civil Court.

Clause 39. — Deals with the payment of compensation awarded.

Clause 40. — Prescribes that all payments of compensation shall be made by adjustment of betterment charges due, if any.

CHAPTER VI

Clause 41. — Stipulates that notices shall be served on the persons known or believed to be the owners or interested in the lands benefited by the work for imposition and recovery of betterment charges on such lands.

Clause 42. — Prescribes the procedure to be followed before an order regarding betterment charges is passed. This clause also stipulates that no betterment charges are leviable —

(i) on land which is unsuitable for development as a building site.

(ii) which is beyond a distance of two hundred metres from the middle of the highway on either side.

Clause 43. — Discusses the increase in value of land on account of construction of a Highway vis-a-vis betterment charges.

Clause 44. — Allows any person aggrieved by the order fixing betterment charges to seek reference to the Civil Judge.

Sub-Clauses (2), (3) and (4) describe the procedure for such a reference.

Clause 45. — Deals with the finality of order fixing betterment charges and of decisions on reference.

Clause 46. — This clause stipulates the date from which the betterment charges are leviable and that the betterment charges to be the first charge on land next to land revenue.

Clause 47. — Deals with the mode of payment of betterment charges.

Clause 48. — This clause provides for relinquishment of land or exchange of land in lieu of payment of charges, in favour of Government.

CHAPTER VII

Clause 49. — This clause empowers the Highway Authority to take appropriate action to prevent danger to traffic arising from obstruction of view, etc. of the persons using any highway.

Sub-clauses (2) and (3) describe the procedures for filing objection, if any, and its consideration by the Highway Authority.

Sub-clause (4) allows any aggrieved person to appeal to the Collector whose decision is final.

Clause 50. — This clause empowers the Highway Authority to regulate traffic when Highway is declared unsafe.

Clause 51. — This clause vests powers with the Highway Authority to prohibit use of heavy vehicles on certain Highways or portions thereof.

Clause 52.— This clause deals with the procedures to be followed when the Highway Authority decides to permanently close any Highway.

Clause 53.— This clause describes certain works on Highways for which consent of Highway Authority is required and the powers of the Highway Authority in this regard.

Clause 54.— Prohibits any person to wilfully cause any damage to any Highway and describes penalties for such a damage.

CHAPTER VIII

Clause 55.— Prescribes penalty to be levied in case of disobedience of order of the Highway Authority and refusal to give information etc.

Clause 56.— Prescribes penalty to be levied in case of contraventions of restrictions relating to access or erections of building etc.

Clause 57.— Prescribes penalty to be levied in case of unauthorised occupation of highway.

Clause 58.— Prescribes penalty in case of wilful damage to highway.

Clause 59.— Prescribes penalty in case of offences in general.

Clause 60.— This clause deals with the powers to compound offences. The Highway authority has been empowered to compound offences.

Clause 61.— Empowers the Government to call for and examine records pertaining to orders passed by the Highway Authority and to revise the orders, as it thinks fit.

CHAPTER IX

Clause 62.— This clause deals with the powers and duties of the police authorities in assisting the Highway Authority.

Clause 63.— This clause deals with the duties of the village officials.

Clause 64.— This clause empowers the Highway Authority to utilise Highway for other than road purposes.

Clause 65.— This clause deals with procedures to be adopted for summary eviction of persons wrongfully occupying any land.

Clause 66.— This clause empowers the Highway Authority to hold enquiries summarily.

Clause 67.— This clause deals with exemption of registration of maps made in accordance with the Act.

Clause 68.— This clause declares the Highway Authority, the Officers and other persons authorised as public Servants.

Clause 69.— This clause states that no court shall have jurisdiction to settle, decide or deal with any question which is to be settled by any of the authorities under the act.

Clause 70.— This clause gives protection to persons action in good faith and deals with limitation of suit or prosecution.

Clause 71.— This clause deals with the procedure for serving notices and presenting bills under the Act.

Clause 72.— This clause empowers the Government to make rules to carry out all or any of the purposes of this Act.

Sub-clause (3) lays down that every rule made under this section be laid before the Legislative Assembly of Goa, Daman and Diu and the rule shall have effect depending on the decision of the assembly.

Clause 73.— This clause deals with the limitations of the Highway Act.

Clause 74.— This clause stipulates that the provision of this Act or rule made thereunder to prevail over inconsistent provisions in other Laws.

Clause 75.— This clause stipulates that nothing in this Act shall apply to National Highway. However, with the prior approval of the Central Government, the Government is empowered to enforce certain sections of the Act, in respect of such Highways.

Financial Memorandum

Since the Officers discharging duties under the proposed Highway Act are officials of this Government no additional recurring expenditure will be involved in implementation of this Act, as no special posts will be created to deal with.

Memorandum of Delegated Legislation

1. Clause 72 of the Bill gives power to the Government to make rules on various matters for carrying out the purposes of the Act. This is necessary and is on the lines usually adopted in all legislations.

2. Clause 60 gives the Highway authority the power to compound offences. This is necessary and incidental provision intended to facilitate the smooth operation of the provisions.

Panaji SMT. SHASHIKALA KAKODKAR
Dated Chief Minister

14th September, 1973.

Panaji B. M. MASURKAR
Dated Secretary to the Legislative Assembly of Goa, Daman and Diu
25th September, 1973.

LA/B/7/1958/73

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 27th September, 1973 is hereby published for general information in pursuance of the provisions of Rule 127 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Diseases of Animals Bill, 1973

(Bill No. 15 of 1973)

ARRANGEMENT OF SECTIONS

Preamble

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1. Short title, extent and commencement.
2. Definitions.

Sections

3. Appointment of Veterinary Surgeons and Inspectors.
4. Veterinary Surgeons and Inspectors to be Public Servants.

PART II

Eradication, Prevention and Control of Scheduled Diseases

5. Eradication of diseases in certain areas.
6. Power to prohibit or regulate import, export or transport of, holding of markets, fairs etc. and traffic in infective animals etc.
7. Establishment of quarantine stations.
8. Power to isolate infective animals and their examination.
9. Power of Veterinary Surgeon to examine animals.
10. Compensation for animals destroyed.
11. Declaration of private infected places and examination of such places by Veterinary Surgeons.
12. Declaration of public infected places.
13. Power of Government to declare infected areas.
14. Removal of animals and other things from infected area or place prohibited without licence.
15. Power to require animals etc. to be brought to infected areas.
16. Cleansing and disinfection of vessels and vehicles.
17. Power to require disinfection of infected premises, vessels or vehicles.
18. Power of Veterinary Surgeon to hold post mortem.
19. Duty of certain persons to report scheduled diseases.
20. Duty of person in-charge to isolate infected animals.
21. Keeping or grazing infective animals prohibited.
22. Bringing of infective animals in market, etc. prohibited.
23. Placing of carcass of infective animals in river, etc. prohibited.
24. Disinterring without lawful authority, carcass of animal prohibited.
25. Powers of entry and inspection.
26. Enforcement of orders and recovery of expenses.
27. Power of Inspector to decide whether or not animal is infective.
28. Penalties.
29. Penalty for placing carcass of infective animals in river etc.
30. Penalty for vexatious entry, inspection and seizure.
31. Officers bound to assist Inspectors and Veterinary Surgeons.
32. Powers of arrest and seizure.
33. Jurisdiction of Magistrates.
34. Bar of claim to compensation.
35. Officers to act subject to orders of the Government.
36. Protection of action taken under this Act.
37. Power to make Rules.
38. Power of Government to add to schedule.

The Goa, Daman and Diu Diseases of Animals Bill, 1973

(Bill No. 15 of 1973)

A Bill to provide for the eradication, prevention and control of diseases affecting animals.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-fourth Year of the Republic of India as follows:

PART I

Preliminary

1. **Short title, extent and commencement.** — (1) This Act shall be called the Goa, Daman and Diu Diseases of Animals Act, 1973.

(2) It shall extend to the whole of the Union territory of Goa, Daman and Diu.

(3) This section, section 2 and section 5 shall come into force at once. The Government may, from time to time, by notification in the Official Gazette, direct that all or any of the remaining provisions of this

Act shall come into force in such area in respect of such scheduled disease and on such date as may be specified in the notification and may, by similar notification, direct that such provisions shall cease to be in force in any area from such date as may be specified therein.

2. **Definitions.** — In this Act, unless the context otherwise requires, —

- (a) "animal" means any domesticated animal or bird, or any animal or bird kept in confinement;
- (b) "export" means to take out of the Union territory, otherwise than across a customs frontier;
- (c) "Government" means the Government of Goa, Daman and Diu;
- (d) "import" means to bring into the Union territory, otherwise than across a customs frontier;
- (e) "infective animal" means an animal which is affected with a scheduled disease or has recently been in contact with or in close proximity to an animal so affected;
- (f) "Inspector" means an Inspector appointed under section 3;
- (g) "prescribed" means prescribed by rules;
- (h) "rules" means rules made under section 37;
- (i) "scheduled disease" means any disease specified in the schedule;
- (j) "transport" means to remove to one place from another place within the Union territory;
- (k) "Union territory" means Union territory of Goa, Daman and Diu;
- (l) "Veterinary Surgeon" means the Veterinary Surgeon appointed under section 3.

3. **Appointment of Veterinary Surgeons and Inspectors.** — (1) The Government may, by notification in the Official Gazette, appoint requisite number of persons to be Veterinary Surgeons for the purpose of this Act for the whole of the Union territory.

(2) The Government may, by notification in the Official Gazette, appoint requisite number of persons to be Inspectors for all or any of the purposes of this Act and specify the area within which he shall exercise the powers and perform the duties of an Inspector under this Act.

(3) A Veterinary Surgeon may exercise all the powers which an Inspector shall exercise under this Act, in addition to his powers as Veterinary Surgeon.

4. **Veterinary Surgeons and Inspectors to be public servants.** — Veterinary Surgeons and Inspectors appointed under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860).

PART II

Eradication, Prevention and Control of Scheduled Diseases

5. **Eradication of diseases in certain areas.** — (1) The Government, with the object of eradicating

as far as practicable any scheduled disease, may, by notification in the Official Gazette —

- (a) declare any local area to be an eradication area, and thereupon in such area any class or classes of animals specified in the notification shall be liable to be immunized in the manner described in the notification, and shall also for the purposes of identification be marked in the prescribed manner; and
- (b) prohibit or regulate the movement of any class or classes of animals into, or out of, or within, any local area which is for the time being declared to be an eradication area.

(2) For the purpose of immunizing any animal as provided in sub-section (1) the Veterinary Surgeon or Inspector may, by notice in writing served on any person, or published in any such local area or part thereof, in the manner prescribed, require any person or all persons, as the case may be, who own or are in charge of any such animal to produce the animal for immunization and marking at such time and place as is specified in the notice, and thereupon the person, or all persons, to whom the notice refers shall comply with the requisition, and shall also give all reasonable facilities and assistance for carrying out the immunization and marking:

Provided that, on an application made by the owner, or any person having charge of any animal required to be immunized and marked, the Veterinary Surgeon or Inspector may, for good and sufficient reason, exempt any animal from such immunization or marking and he shall, if so requested, furnish in writing to the owner, or person in charge of such animal, the reason for such exemption.

Explanation: "Immunization" for the purpose of this section means treatment with serum, or with both vaccine and serum.

6. Power to prohibit or regulate import, export or transport of, holding of markets, fairs etc. and traffic in infective animals etc. — (1) The Government may, for the purpose of preventing the outbreak or spread of any scheduled disease, by notification in the Official Gazette, prohibit, control or regulate in such manner and to such extent as it may think fit;

- (a) the import, export or transport of any animals or the carcasses thereof, or of any part of animals or carcasses thereof or of any fodder, bedding or other thing used in connection with animals, which may, in the opinion of the Government, carry infection, or
- (b) the holding of animal markets, animal fairs, animal exhibitions or other concentration of animals in any specified area,
- (c) the sale or other dealings in, infective animal or the carcasses of animals, which at the time of their death were infective, or any fodder, bedding or other thing used in connection with such animals which may, in the opinion of the Government, carry infection.

(2) The Government may, by notification in the Official Gazette, specify the season or seasons during

which and the route or routes by which animals may be imported into the Union territory, and no person shall import animals into the Union territory otherwise than during the season and by the route so appointed.

7. Establishment of quarantine stations. — (1) The Government may establish quarantine station for the inspection and detention of animals along the route appointed under sub-section (2) of section 6.

(2) All animals inspected or detained at a quarantine station shall be liable —

- (a) to be vaccinated against any scheduled disease if in the opinion of the officer in charge of such station it is necessary to do so; and
- (b) to be marked in the prescribed manner.

(3) The period of detention of animals at a quarantine station for the purpose of inspection, vaccination and marking shall be such as may be prescribed.

(4) The animals detained at a quarantine station shall remain under the care of the person in charge who shall be responsible for their feeding and upkeep and for the payment of such fee for their vaccination and marking as may be prescribed.

(5) The officer in charge of the quarantine station shall, at the time of release of an animal from the station, grant in such form as may be prescribed a permit to the person in charge of the animal and such person shall, while in charge of the animal, produce it whenever required to do so by an Inspector or a Police Officer.

8. Power to isolate infective animals and their examination. — (1) Where an Inspector has reason to believe that any animal is infective he may, by order in writing, direct the owner or person in charge of such animal to keep it where it is for the time being or to remove it or allow it to be removed to such place of isolation or segregation as may be specified in the order:

Provided that where there is no person in charge of the animal and the owner is unknown, or where the order cannot be communicated to the owner of the animal without undue delay or where the person in charge of the animal refuses to comply with the order under this sub-section, the Inspector may seize the animal and remove it to a place of isolation or segregation.

(2) The Inspector shall forthwith report to the Veterinary Surgeon every order or seizure under sub-section (1).

9. Power of Veterinary Surgeon to examine animals. — (1) On receipt of a report under sub-section (2) of section 8 the Veterinary Surgeon shall, as soon as practicable, examine the animal and all animals with which it has been in contact or which it has been in close proximity, and for this purpose may submit an animal to any prescribed test.

(2) If after such examination the Veterinary Surgeon, —

- (a) is of opinion that any animal is not infective, the Inspector shall forthwith return

it to the person, who, in his opinion, is entitled to its possession:

Provided that where such person cannot, in the opinion of the Inspector, be found after reasonable inquiry, he shall send the animal to the nearest cattle pound or deal with it in such other manner as may be prescribed.

- (b) certifies in writing that any animal is affected with a scheduled disease the Inspector shall destroy the animal, or deal with it in such other manner as may be prescribed, or
- (c) certifies in writing that any animal is infective, though not diseased, the animal shall be dealt with in such manner as may be prescribed.

(3) The decision of the Veterinary Surgeon whether any animal has been in contact with or in close proximity to an animal suspected to be affected with a scheduled disease shall be final.

10. Compensation for animals destroyed.— (1) *The owner of an animal destroyed under sub-section (2) of section 9 may be paid such compensation as shall be determined in the manner prescribed;*

Provided that no compensation shall be paid—

- (i) to any person convicted of any offence punishable under this Act committed in respect of such animal; or
- (ii) in respect of any animal which, when it was imported, was affected with a scheduled disease on account of which it was destroyed.

(2) *The decision under sub-section (1) regarding the right of a person to be paid any compensation or the amount of such compensation shall be final.*

11. Declaration of private infected places and examination of such places by Veterinary Surgeon.— (1) If an Inspector has reason to believe that an infective animal is kept on any land, or in any building or other place, he shall, forthwith, by order in writing, declare such land, building or place to be an infected place. The Inspector shall deliver a copy of the order to the owner, occupier or person in charge of the infected place and report his action to the Veterinary Surgeon:

Provided that nothing in this sub-section shall apply to any place which is owned by or is under the control or management of, any local authority or a railway administration or a Port authority and in which animals are kept temporarily for purposes of sale or exhibition or while in transit.

(2) On receipt of a report under sub-section (1), the Veterinary Surgeon shall, as soon as practicable, examine the infected place and the animals kept therein. After such examination, he shall either confirm or cancel the order passed by the Inspector.

(3) If the Veterinary Surgeon confirms the order passed by the Inspector, he may declare all places in which animals are kept, temporarily or otherwise, within a radius not exceeding one mile from the infected place, to be infected places. The Veterinary Surgeon shall give a written notice of such declaration to the owners, occupiers or persons in charge of such places. The Veterinary Surgeon shall thereafter

report the action taken by him under this section to the Government.

(4) If the Veterinary Surgeon cancels the order passed by the Inspector the place specified in such order shall cease to be an infected place and the Inspector shall give notice accordingly to the owner, occupier or person in charge of such place.

12. Declaration of public infected places.— (1) Where the Veterinary Surgeon has reason to believe that an infective animal is or has been kept in any place which is owned by or is under the control or management of any local authority or railway administration or a port authority and in which animals are kept temporarily for purposes of sale or exhibition or while in transit, he may, by order in writing, declare such place to be an infected place.

(2) The Veterinary Surgeon shall—

- (a) cause a copy of the order passed by him under sub-section (1) to be exhibited prominently in the infected place in the regional language of the locality;
- (b) cause a copy of such order to be delivered at the office of the local authority or to the station master of the nearest railway station or to the officer in charge of the port or in charge of a shipping office at such port, as the case may be;
- (c) cause a copy of the order to be sent to the nearest police station; and
- (d) forthwith report the action taken by him to the Government.

13. Power of Government to declare infected areas.— (1) The Government on receipt of the report may—

- (a) confirm the declaration under sub-section (1) or (3) of section 11 or sub-section (1) of section 12, either with or without modification; or
- (b) cancel any such declaration.

(2) Where the Government confirms any such declaration, either with or without modification, a notification shall be published in the Official Gazette defining the limits of the area to which the declaration with the modifications, if any, made therein, shall apply and declaring such area to be an infected area.

(3) The Government may, by notification in the Official Gazette, add to, amend, vary or rescind any notification published under sub-section (2) either on its motion or on a further report of the Veterinary Surgeon submitted to it.

(4) On publication of a notification under sub-section (2) or (3), any place declared by the Inspector or the Veterinary Surgeon to be an infected place and not included in the infected area as defined in such notification shall cease to be an infected place and the Inspector shall give notice accordingly to the owner, occupier or persons in charge of such place.

(5) The Inspector shall cause to be exhibited in some prominent place in the infected area and in the regional language thereof a copy of the notification issued under sub-section (2) or (3).

(6) Where the Government cancels any declaration referred to in sub-section (2), any place specified in such declaration shall cease to be an infected place and the Inspector shall give notice accordingly to all persons to whom copies of such declaration were delivered or on whom notices of such declaration were served.

(7) The Government may, subject to such conditions, if any, as it thinks fit, delegate all or any of its powers under this section to the Collector of a District; and thereupon all or, as the case may be, the relevant provisions of this section, shall apply in relation to such officer as they apply in relation to the Government.

14. Removal of animals and other things from infected area or place prohibited without licence. —

(1) Where any area or place has been declared to be an infected area or place under the foregoing provisions, no person shall, while such a declaration remains in force, remove any infected animal, alive or dead, or any part of an animal or any feed, bedding or other thing used in connection with an animal, save in accordance with the conditions of a licence granted by the Inspector.

(2) Nothing contained in sub-section (1) shall apply to the carriage by a railway, of any animal or thing referred to in that sub-section through an infected area or place;

Provided that where any such animal or thing, while in transit through an infected area or place, is unloaded therein, it shall not be removed therefrom save in accordance with the provisions of sub-section (1).

15. Power to require animals, etc. to be brought to infected areas. — Where any animal or thing referred to in section 14 is removed from an infected area or place otherwise than in accordance with the conditions of a licence granted under the said section 14, any Inspector or Police Officer may require the owner or person in charge of such animal or thing to take it back to such area or place;

Provided that nothing in this section shall affect the powers of an Inspector under section 8 to deal with infective animals.

16. Cleansing and disinfection of vessels and vehicles. — (1) Every vessel or vehicle used by a common carrier for the transport of animal shall be cleansed and disinfected by him at such periods and in such manner as may be prescribed.

(2) The person in charge of every such vessel or vehicle shall, when required to do so by an Inspector, cause the vessel or vehicle to be taken to such place as the Inspector may direct and to stop and remain stationary for so long as may reasonably be necessary for the purpose of enabling the Inspector to inspect such vessel or vehicle. The Inspector may, after such inspection, if in his opinion the vessel or vehicle is not in a sanitary condition, require it to be cleansed and disinfected in the prescribed manner.

(3) Nothing in this section shall apply to the rolling stock of any railway.

17. Power to require disinfection of infected premises, vessels or vehicles. — Subject to such rules as may be prescribed, the Veterinary Surgeon may,

by order in writing, require the owner, occupier or person in charge of any land, building or other place or of any vessel or vehicle in which an infective animal has been kept, to have such land, building, place, vessel or vehicle disinfected, and the internal fittings thereof and other things found therein or near thereto to be disinfected or destroyed in such manner and to such extent as may be specified in the order.

18. Power of Veterinary Surgeon to hold post-mortem. — Subject to such rules as may be prescribed, the Veterinary Surgeon may make or cause to be made a post-mortem examination of any animal which at the time of its death was, or is suspected to have been, infective, and for this purpose he may cause the carcass of such animal to be exhumed.

19. Duty of certain persons to report scheduled diseases. — Every owner or person in charge, and every Veterinary practitioner who has been called to treat an animal which he has reason to believe to be affected with a scheduled disease, shall forthwith report the fact to the Inspector having jurisdiction in the area.

20. Duty of person in charge to isolate infected animals. — Every owner or person in charge of an animal which he has reason to believe to be affected with a scheduled disease, shall keep that animal in a closed space separate from animals not so affected.

Explanation: — "Closed space" for the purpose of this section means any place, enclosed in such manner, and situated at such distance, as to effectively prevent any animal affected with a scheduled disease from coming into contact with any animal not so affected, or any animal not so affected from coming into contact with an animal so affected.

21. Keeping or grazing infective animals prohibited. — No person shall keep or graze in open or unenclosed land to which other persons have a right of access for their animals, any animal which he knows to be infective.

22. Bringing of infective animals in market, etc. prohibited. — No person shall bring or attempt to bring into any market, fair, exhibition or other concentration of animals, any animal which he knows to be infective.

23. Placing of carcass of infective animals in river, etc. prohibited. — No person shall place or cause or permit to be placed in any river, lake, canal or other water or in the sea within such distance from the shore, as may be prescribed, the carcass or any part of the carcass of any animal which at the time of its death was infective or which was destroyed on account of its being infective or suspected to be infective.

24. Disinterring without lawful authority, carcass of animal prohibited. — No person shall, without lawful authority, disinter or cause to be disinterred the carcass or any part of the carcass of any animal which at the time of its death was infective or which was destroyed on account of its being infective or suspected to be infective.

25. Powers of entry and inspection. — Subject to such rules as may be prescribed, an Inspector may

enter upon and inspect any land, building or other place or any vessel or vehicle for the purpose of exercising the powers and performing the duties conferred or imposed on him by or under this Act.

26. Enforcement of orders and recovery of expenses.—(1) Whereby any notice, requisition or order made under this Act or under any rule or notification issued thereunder, any person is required to take any measures or to do anything in respect of any property owned or occupied by him or in his charge, a reasonable time shall be specified in such notice, requisition or order within which such measures shall be taken or such things shall be done, as the case may be.

(2) If such measures are not taken or such thing is not done within the time so specified, the authority issuing the notice, requisition or order, may cause the measures to be taken or the thing to be done at the cost of the person concerned.

(3) The cost of any measures taken or thing done under sub-section (2) shall be recoverable from the person concerned in the manner provided by the Code of Criminal Procedure, 1898 (V of 1898) for the recovery of fines imposed by a Court as if such cost were a fine imposed by a Court.

27. Power of Inspector to decide whether or not animal is infective.—If any question arises under this Act whether or not an animal is an infective animal, the question shall be decided by the Veterinary Surgeon and his decision shall be final.

28. Penalties.—Whoever,—

- (i) fails to comply with or contravenes the terms of any notification issued under section 5, or fails to carry out any requisition made or directions given, by or under the said section, or
- (ii) fails to carry out any direction specified in, or contravenes the terms of, any notification issued under section 6 or imports any animal in contravention of the provisions of sub-section (2) thereof, or
- (iii) fails to feed or look after the upkeep of the animal under sub-section (4) of section 7 or fails to produce the permit under sub-section (5) thereof, or
- (iv) fails to comply with an order made by an Inspector under sub-section (1) of section 8, or
- (v) removes any animal or thing from an infected area or place in contravention of the provisions of section 14, or
- (vi) fails to comply with any direction given by an Inspector or a Police Officer under section 15, or
- (vii) fails to cleanse or disinfect any vessel, or vehicle used for removing animals in the manner prescribed as required under sub-section (1), or fails to cause any vessel or vehicle to stop and remain stationary when required to do so under sub-section (2), of section 16, or
- (viii) fails to comply with an order made by a Veterinary Surgeon under section 17, or
- (ix) fails to report that an animal is infective as required by section 19, or

- (x) fails to keep an infective animal separate as required by section 20, or
- (xi) keeps or grazes any animal which he knows to be infective in contravention of the provisions of section 21, or
- (xii) brings or attempts to bring any animal which he knows to be infective in contravention of the provisions of section 22, or
- (xiii) disinters or causes to be disinterred the carcass or any part of the carcass of any animal which at the time of its death was infective or was destroyed on account of its being infective or suspected to be infective in contravention of the provisions of section 24,

shall, on conviction, be punished in the case of a first conviction with fine which may extend to one hundred rupees, and in the case of a second or subsequent conviction whether under the same or any other clause of this section, with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees or with both.

29. Penalty for placing carcass of infective animal in river, etc.—Whoever places or causes or permits to be placed in any river, lake, canal or other water or in the sea within such distance from the shore, as may be prescribed, the carcass or any part of the carcass of any animal which at the time of its death was infected or which was destroyed on account of its being infective or suspected to be infective, in contravention of the provisions of section 23, shall, on conviction, be punished, in the case of a first conviction with imprisonment for a term which may extend to six months, or with fine which may extend to one hundred rupees, or with both, and in the case of a subsequent conviction with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

30. Penalty for vexatious entry, inspection and seizure.—(1) Whoever, being an Inspector or a Veterinary Surgeon, appointed under this Act, vexatiously and unnecessarily enters or inspects any land, building or other place or any vessel or vehicle or seizes or detains any animal shall, on conviction, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

(2) No prosecution under this section shall be instituted after the expiry of three months from the date on which the offence has been committed.

31. Officers bound to assist Inspectors and Veterinary Surgeons.—All Village Officers and all officers of the departments of revenue, agriculture and veterinary shall be bound

- (a) to give immediate information to the Veterinary Surgeon and Inspector having jurisdiction in the area regarding the prevalence of a scheduled disease among animals in the area,
- (b) to take all necessary measures to prevent the spread of disease, and
- (c) to assist the Veterinary Surgeon and Inspector to carry out the provisions of this Act.

32. Powers of arrest and seizure. — (1) Any police officer, not below the rank of sub-inspector, may, without an order from a Magistrate and without a warrant, arrest any person for whose arrest a requisition has been received from an Inspector or a Veterinary Surgeon, provided that the requisition specifies the person to be arrested, and the offence punishable under this Act in which such person has been concerned.

(2) Such police officer may seize any animal in respect of which an offence has been committed, and shall without delay obtain the orders of a Judicial Magistrate for its custody.

33. Jurisdiction of Magistrate. — No Magistrate, other than a Judicial Magistrate of the First Class or a Judicial Magistrate of the Second Class, especially empowered in this behalf by the Government, shall try any offence punishable under this Act.

34. Bar of claim to compensation. — No person shall, except as provided for in section 10, be entitled to any compensation on account of the destruction of any animal or thing under the Act or of any loss, injury or inconvenience caused to him by reason of anything lawfully done under this Act.

35. Officers to act subject to orders of the Government. — All officers shall exercise the powers and perform the duties conferred and imposed on them by or under this Act in accordance with such orders not inconsistent with the provisions of this Act, as the Government may from time to time make.

36. Protection of action taken under this Act. — No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or the rules made under this Act.

37. Power to make rules. — (1) The Government may make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following matters, namely:

- (i) the manner of marking animals under sub-section (1), and the manner of serving or publishing notices under sub-section (2), of section 5;
- (ii) the manner of marking animals under sub-section (2), the period of detention under sub-section (3), the amount of fee for the vaccination and marking of animals under sub-section (4) and the form of permit under sub-section (5), of section 7;
- (iii) the test to which an animal may be submitted under sub-section (1) and the manner in which an animal may be dealt with under sub-section (2) of section 9;
- (iv) the manner in which compensation shall be determined under section 10;
- (v) the period at which and the manner in which the vessels and vehicles shall be cleansed and disinfected under section 16;
- (vi) for disinfecting land, building or other place or vessel or vehicle under section 17;

- (vii) the making of post-mortem examinations under section 18;
- (viii) the distance from the shore within which carcasses shall not be placed under section 23;
- (ix) for regulating the powers of an Inspector under section 25.

(3) In making a rule under sub-section (1) or sub-section (2), the Government may provide that a breach thereof shall be punishable with fine which may extend in the case of a first conviction to Rs. 50/- and in the case of a second or subsequent conviction to Rs. 100/-.

(4) The rules made under this section shall, subject to the condition of previous publication, be published in the Official Gazette.

(5) Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly of the Union territory while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Assembly agrees in making any modification in the rule or the Assembly agrees that the rule should not be made, the rule shall have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

38. Power of Government to add to Schedule: — The Government may, by notification in the Official Gazette, specify in the Schedule any disease affecting animals and, on the issue of such notification, the Schedule shall be deemed to be amended by the inclusion of the said disease therein.

SCHEDULE

1. Rinderpest or cattle plague
2. Foot and Mouth Disease
3. Haemorrhagic Septicaemia
4. Black Quarter
5. Anthrax
6. Tuberculosis
7. John's Disease
8. Rabies
9. South African Horse Sickness
10. Salmonellosis (i.e. 'Fowl Typhoid' or 'Pul-lorum Disease')
11. Swine Fever

Statement of Objects and Reasons

The Bill provides for the eradication, prevention and control of diseases affecting animals in the Union territory of Goa, Daman and Diu by means of immunization or isolation of the infected animals.

NOTES ON CLAUSES

PART I

Preliminary.

Clause 1. This clause deals with short title, commencement and extent of the Act.

Sections 2 and 5, shall come into force immediately. The Government has been empowered to bring all or any of the remaining provisions of the Act into force in such area in respect of such scheduled disease and on such date as may be specified by the Government.

Clause 2. This is definition clause under which various terms used in the Act have been defined.

Clause 3. This clause deals with appointment of Veterinary Surgeons and Veterinary Inspectors.

Clause 4. Specifies that Veterinary Surgeons and Inspectors are public servants within the meaning of section 21 of the Indian Penal Code, 1860 (XLV of 1860).

PART II

Eradication, Prevention and Control of Scheduled Diseases

Clause 5. Deals with eradication of diseases. The Government has been empowered to declare any area as "eradication area" and to compulsorily immunize all animals in the area. The Government has also been empowered to regulate the movement of any class or classes of animals in the eradication area.

Sub-clause (2) deals with the procedure to be followed by the authorities for immunizing animals.

Clause 6. This clause enables the Government, in order to prevent the spreading or out break of any Scheduled diseases, to prohibit or regulate traffic of infective animals, holding of fairs etc.

Clause 7. Makes provision for establishment of quarantine stations and deals with the formalities to be observed by the officer in-charge of such quarantine station in respect of animals detained therein.

Clause 8. Confers power on Inspectors to isolate infective animals for their examination and also deals with the procedure to be followed by the Inspectors, for this purpose.

Clause 9. Describes the procedure for examination of the infective animals. It empowers the Veterinary Surgeons to destroy an infective animal to avoid spreading of scheduled diseases.

Clause 10. Makes provision for payment of compensation for animals destroyed under clause 9 (2).

Clause 11. This clause enables a Veterinary Inspector to declare any private land or building, where an infected animal is kept, as "infected place". Sub-clause (2) casts a duty on Veterinary Surgeon to examine the infected place and animals kept therein.

Clause 12. Enables a Veterinary Surgeon to declare any place owned by any local authority or railways or port as infected place if he has reason to believe that an infected animal is kept there.

Clause 13. Vests powers with Government either to confirm or cancel the order of the Veterinary Surgeon passed under clause 12.

Clause 14. This clause prohibits removal of animals and other things connected with it from infected area or place without obtaining a licence from Inspector.

Clause 15. Deals with powers of Inspectors or Police Officers to require animals etc. to be brought to infected areas.

Clause 16. Deals with cleansing and disinfection of vessels and vehicles used for transport of animals.

Clause 17. Enables a Veterinary Surgeon to direct any person in-charge of a place where an infective animal has been kept, to have such place disinfected.

Clause 18. Deals with powers of the Veterinary Surgeon to hold post-mortem.

Clause 19. Casts a duty on every owner of an animal infected with a scheduled disease and also on every Veterinary practitioner who treats an infected animal, to report to an Inspector.

Clause 20. Requires every owner of an animal infected with a scheduled disease to keep that animal in a closed place separate from animals not so affected.

Clause 21. Prohibits keeping or grazing infective animals in open or unenclosed land.

Clause 22. Prohibits bringing of infective animals in markets etc.

Clause 23. Prohibits disposal of infected carcass in river etc.

Clause 24. Prohibits exhuming of carcass of infected animals.

Clause 25. Enables an Inspector to enter into any land, building, vessel etc. for the purpose of exercising the powers and discharging the duties under the Act.

Clause 26. Deals with enforcement of orders and recovery of expenses.

Clause 27. Stipulates that the decision of the Veterinary Surgeon as to whether an animal is infected or not shall be final.

Clause 28. Prescribes penalties for various acts of commission or omission.

Clause 29. Prescribes penalty for placing carcass of infective animal in river etc.

Clause 30. This clause makes vexatious entry or inspection of any land, building, etc. and seizure of any animal by either an Inspector or a Veterinary Surgeon, an offence. This clause would check abuse of powers by authorities.

Clause 31. Specifies officers who are bound to assist Inspectors and Veterinary Surgeons in carrying out the purposes of the Act.

Clause 32. Deals with powers of arrest and seizure by Police Officers.

Clause 33. Deals with Jurisdiction of Magistrates.

Clause 34. This clause stipulates that a person whose animal or any other thing has been destroyed or who has otherwise suffered any loss or injury, shall not be entitled to any compensation except the one provided in clause 10.

Clause 35. Stipulates that officers are to act subject to orders of Government.

Clause 36. Deals with protection of action taken under this Act.

Clause 37. Empowers Government to frame rules with respect to procedural matters.

Clause 38. Empowers Government to add to the Schedule any disease at any time.

Schedule—This lists out eleven diseases which come under the purview of the Act.

Financial Memorandum

No additional financial implication will be involved in implementing the provisions of the Bill, as the existing staff of the Directorate of Animal Husbandry and Veterinary Services will carry out the provisions of the Bill except the payment of compensation for animals destroyed as provided under Section 10 of the Bill. No estimate of the net cost is possible, as regards payment of compensation. The penalties under Section 28, 29 & 30 of the Bill will constitute the revenue of the Government.

Memorandum of Delegated Legislation

Clause 37 of the Bill gives power to the Government to make rules for carrying out all or any purposes of this Act. These powers are of a normal character providing only for the details of procedure for facilitating the working of this Act.

Panaji, A. K. S. USGAONKAR
14th September, 1973 Minister for Agriculture

Assembly Hall, B. M. MASURKAR
Panaji, Secretary to the
22nd September, 1973 Assembly Legislative
of Goa, Daman and Diu

Administrator's recommendation under Section 23 of the Government of Union territories Act, 1963.

In pursuance of sub-section (3) of Section 23 of the Government of Union territories Act, 1963, the Administrator of Goa, Daman and Diu has recommended to the Legislative Assembly of Goa, Daman and Diu the introduction and consideration of the Goa, Daman and Diu Diseases of Animals Bill, 1973.

LA/B/7/1956/73

The following Bill which was introduced in the Legislative Assembly of Goa, Daman and Diu on 27th September, 1973 is hereby published for general information in pursuance of the provisions of Rule 127 of the Rules of Procedure and Conduct of Business of the Legislative Assembly.

The Goa, Daman and Diu Motor Vehicles Tax Bill, 1973

Preamble
Sections:

1. Short title, extent and commencement.
2. Definitions.
3. Levy of tax.
4. Payment of tax.
5. Issue of tax token and tax licence.
6. Tax to be paid alongwith declaration.
7. Payment of additional tax.
8. Liability to pay arrears of tax of persons succeeding to the ownership, possession or control of motor vehicles.
9. Refund of tax.
10. Destination and utilisation for the proceeds of tax.
11. Exemptions.
12. Penalty for failure to pay tax.

13. Arrears of tax, penalty or fine recoverable as an arrear of land revenue.
14. Power to seize and detain motor vehicles in case of non-payment of tax.
15. Transport vehicle permit to be ineffective if tax not paid.
16. Appeals.
17. Power of police officer and the Motor Vehicles Department officers.
18. Penalties.
19. Other Penalties.
20. Compounding of offences.
21. Trial of offences.
22. Protection of action done in good faith.
23. Power to remove difficulty.
24. Power to make rules.
25. Repeal and savings.

The Goa, Daman and Diu Motor Vehicles Tax Bill, 1973

(Bill No. 16 of 1973)

A Bill to consolidate and amend the law relating to the taxation of Motor Vehicles in the Union territory of Goa, Daman and Diu and to provide for certain other matters.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twenty-fourth Year of the Republic of India as follows:—

1. **Short title, extent and commencement.**—(1) This Act may be called the Goa, Daman and Diu Motor Vehicles Tax Act, 1973.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. **Definitions.**—In this Act, unless the context otherwise requires,—

(1) "Government" means the Administrator of the Union territory of Goa, Daman and Diu appointed by the President under Article 239 of the Constitution;

(2) "prescribed" means prescribed by rules made under this Act;

(3) "quarter" means a period of three months commencing on the first day of April, the first day of July, the first day of October or the first day of January, of each year; and the term "quarterly" shall be construed accordingly;

(4) "registered owner" means the person in whose name a motor vehicle is registered under the Motor Vehicles Act, 1939; (Central Act 4 of 1939)

(5) "tax" means a tax imposed under this Act;

(6) "Taxation Authority" or "Authority" means such officer or authority as the Government may, by notification in the Official Gazette, appoint to be the Taxation Authority for the whole of the Union territory or for any area for the purposes of this Act, and more than one officer or authority may be appointed for the whole of the Union territory or for any area;

(7) "tax licence" means a licence issued under section 5 indicating therein the rate at which the

tax is leviable and the periods for which the tax has been paid;

(8) "tax token" means a token issued under section 5 indicating therein that the amount of tax has been paid, and includes a fresh tax token issued in place of the original token under this Act;

(9) "Union territory" means the Union territory of Goa, Daman and Diu;

(10) "year" means the financial year;

(11) other words and expressions used but not defined in this Act, shall have the meanings respectively assigned to them in the Motor Vehicles Act, 1939.

(Central
Act 4 of
1939)

3. Levy of tax.—(1) A tax shall be leviable on every motor vehicle used or kept for use in the Union territory at such rates not exceeding the rates specified in the Schedule to this Act, as the Government may, by notification in the Official Gazette, specify:

Provided that in the case of motor vehicles kept by a dealer in or manufacturer of, such vehicles for the purposes of trade, the tax shall be payable by such dealer or manufacturer on such vehicles which under the rules made under the Motor Vehicles Act, 1939, have been permitted to be used on the road whether under a trade certificate or under a temporary registration.

(Central
Act 4 of
1939)

Provided also that the Government may, in respect of any motor vehicle or class of vehicles prescribe by rule or order that tax in respect of such vehicle or class of motor vehicles shall be levied for periods less than a quarter for which such vehicle or class of vehicles has been kept for use in the Union territory and whereupon tax shall be paid in respect of such vehicles or class of vehicles at such rate as may be prescribed for periods less than a quarter, so however that it shall not proportionately be in excess of the annual rate.

(2) Except during any period for which the taxation authority has, in the prescribed manner, certified that a motor vehicle was not used or kept for use in the Union territory, the registered owner, or any person having possession or control of a motor vehicle of which the certificate of registration is current, shall for the purposes of this Act, be deemed to use or keep such vehicle for use in the Union territory.

(3) In the case of motor vehicles in respect of which any reciprocal arrangement relating to taxation has been entered into between the Government of Goa, Daman and Diu and any other State Government the levy and collection of tax shall, notwithstanding anything contained in this Act, be in accordance with the terms and conditions of such reciprocal arrangement:

Provided that the tax leviable under any such arrangement shall not exceed the tax leviable under the Schedule.

4. Payment of tax.—(1) The tax levied under section 3 shall be paid in advance by every registered

owner, or person having possession or control of the motor vehicle for a quarter, half year or year, at his choice, and on such payment, he shall be granted a quarterly, half-yearly or annual tax licence as the case may be:

Provided that the tax levied under sub-section (3) of section 3 shall be paid in respect of such vehicles at such rates as may be prescribed for periods less than a quarter.

Explanation.—The tax for a half yearly licence shall be double the tax for the quarterly licence and the tax for the yearly licence shall be four times the tax for a quarterly licence:

Provided further that any broken period in such quarterly periods shall, for the purpose of levying the tax, be considered as a full period.

Provided also that the registered owner or person having possession or control of the motor vehicle shall, at the time of making payment of tax under this sub-section produce before the authority a valid certificate of insurance in respect of the vehicle complying with the requirements of Chapter VIII of the Motor Vehicles Act, 1939.

(Central
Act 4 of
1939)

(2) In the case of the annual licences, such rebate in respect of the tax as may be prescribed, shall be granted.

(3) In calculating the amount of tax due under sub-section (1) for any period less than one year, the fraction of a rupee less than fifty paise shall be taken as fifty paise, and the fraction of a rupee exceeding fifty paise shall be taken as a rupee.

5. Issue of tax token and tax licence.—(1) When the tax leviable under section 3 in respect of any motor vehicle is paid, the taxation authority shall determine the amount of tax and issue to the person paying the tax—

(a) a tax token in the prescribed form, indicating therein that such tax has been paid, and

(b) a tax licence in the prescribed form, indicating therein the rate at which the tax is leviable and the period for which the tax has been paid.

(2) Where a tax licence has already been issued in respect of such motor vehicle, the taxation authority shall, on payment of tax as aforesaid, cause to be made in the tax licence an entry of any such payment.

(3) No motor vehicle liable to tax under section 3, shall be kept in the Union territory, unless the registered owner or the person having possession or control of such vehicle has obtained a tax licence under sub-section (1) in respect of that vehicle.

(4) No motor vehicle liable to tax under section 3 shall be used in a public place unless a valid tax token obtained under sub-section (1) is displayed on the vehicle in the prescribed manner.

6. Tax to be paid along with declaration.—(1) Subject to the provisions of this section, every registered owner, or person who has possession or control of a motor vehicle used or kept for use in the Union territory shall fill up, sign and deliver, in the manner provided in sub-section (4), a declaration, and shall,

alongwith such declaration, pay to the Taxation Authority the tax which he appears by such declaration to be liable to pay in respect of such vehicle.

(2) Subject to the provisions of this section, when a motor vehicle used or kept for use in the Union territory, is altered or is proposed to be used in such manner as to render the registered owner, or person who has possession or control of such vehicle liable to the payment of an additional tax under section 7, such owner or person shall fill up, sign and deliver in the manner provided in sub-section (4) an additional declaration and shall along with such additional declaration (accompanied by the tax token and the tax licence in respect of such motor vehicle), pay to the Taxation Authority the additional tax payable under that section, which he appears by such additional declaration to be liable to pay in respect of such vehicle.

(3) Such owner or person shall, at the time of making payment of tax under sub-section (1), or of the additional tax under sub-section (2), produce before the Taxation Authority a valid certificate of Insurance, in respect of the vehicle which complies with the requirements of Chapter VIII of the Motor Vehicles Act, 1939.

(Central
Act 4 of
1939)

(4) The declaration under sub-section (1), the additional declaration under sub-section (2), and the special declaration under sub-section (6) shall be in the prescribed form, containing the prescribed particulars, and shall be delivered, after being duly filled up and signed, within the prescribed time. The additional declaration shall indicate clearly also the nature of the alteration made in the motor vehicle, or as the case may be, the altered use to which the vehicle is proposed to be put.

(5) On receipt of the additional tax under sub-section (2), the Taxation Authority shall determine the amount of additional tax and shall issue to the registered owner, or person who has possession or control, of the vehicle a fresh tax token in place of the original token, and shall cause an entry of such payment to be made in the tax licence.

(6) The Taxation Authority may direct a special notice to be served upon any person requiring such person to fill up, sign and deliver to the Authority or officer named in such notice, a form of declaration, stating whether such person is or is not liable to the payment of any tax and to pay the tax to which he appears by such declaration to be liable to the person named therein before the expiration of fourteen days from the date of the service of such special notice.

(7) As soon as the special declaration under sub-section (6) is made, the Taxation Authority shall determine the amount of tax to be paid under this Act, in respect of the vehicle and whenever, in the opinion of the Taxation Authority the amount of tax has not been correctly paid, the Taxation Authority shall inform the owner of the vehicle who is in possession or control of such vehicle to pay the tax as determined by the Taxation Authority.

7. Payment of additional tax. — Where any motor vehicle, in respect of which a tax has been paid, is altered during such period, or proposed to be used in such a manner as to cause the vehicle to become

a vehicle in respect of which a higher rate of tax is payable, the registered owner or the person who is in possession or control of such vehicle shall pay an additional tax of a sum which is equal to the difference between tax already paid and the tax which is payable in respect of such vehicle for the period for which the higher rate of tax is payable in consequence of its being altered or so proposed to be used and the Taxation Authority shall not grant a fresh tax token in respect of such vehicle so altered or proposed to be so used until such amount of tax has been paid.

8. Liability to pay arrears of tax of persons succeeding to the ownership, possession or control of motor vehicles. — (1) If the tax leviable in respect of any motor vehicles remains unpaid by any person liable for the payment thereof, and such person before having paid the tax has transferred the ownership of such vehicle or has ceased to be in possession or control of such vehicle, the person to whom the ownership of the vehicle has been transferred or the person who has possession or control of such vehicle shall be liable to pay the said tax to the Taxation Authority.

(2) Nothing contained in this section shall be deemed to affect the liability to pay the said tax, of the person who has transferred the ownership or has ceased to be in possession or control of such vehicle.

9. Refund of tax. — (1) Where a tax on any motor vehicle has been paid for any period and it is proved to the satisfaction of the Taxation Authority that the vehicle has not been used during the whole of that period or a continuous part thereof not being less than one calendar month, a refund shall be made of such portion of the tax subject to such conditions as may be prescribed.

(2) Where a motor vehicle in respect of which the tax has been paid is altered in such a manner as to cause it to become a vehicle in respect of which a tax is leviable at a lower rate, the person who has paid such tax shall be entitled on the production of a certificate signed by a Registering Authority stating that the vehicle has been so altered to a refund of a sum equal to the difference between the amount which would be refundable to him in accordance with the provisions of sub-section (1), on the surrender of the tax token and the amount of tax liable on such vehicle at the lower rate.

10. Destination and Utilisation for the proceeds of tax. — (1) The proceeds of the tax recovered under this Act shall first be credited to the Consolidated Fund of the Union territory and such proceeds, after deducting the expenses of collection not exceeding an amount equal to fifteen percent thereof, shall, after due appropriation made by law in this behalf, be paid to the local authorities as contributions, in such manner as the Government may, from time to time, determine.

(2) The contributions to the local authorities made under sub-section (1) shall be paid in such instalments, in such manner and on such dates, as the Government may, after consulting the local authorities concerned, determine.

(3) The contributions made to a local authority under sub-section (1) shall be solely spent on the

construction, improvement and maintenance of roads and similar purposes.

11. Exemptions. — (1) All motor vehicles, designed and used solely for agricultural operations on farms or farm lands, shall be exempted from the payment of tax leviable under this Act.

(2) The Government may, subject to the provisions of any rule made in that behalf by notification in the Official Gazette exempt either totally or partially any class of motor vehicles other than those falling under sub-section (1) or any motor vehicles belonging to any class of persons, from the payment of the tax.

Explanation: — For the purpose of this section the expression «agricultural operation» means tilling sowing, harvesting, crushing of agricultural produce or any other similar operation carried out for the purpose of agriculture; but does not include the transportation of persons or materials for the purpose of agriculture or the transportation of agricultural produce.

12. Penalty for failure to pay tax. — If the tax due in respect of any motor vehicle has not been paid as specified in section 4 or section 7, the registered owner or the person having the possession or control thereof shall, in addition to the payment of the tax due, be liable to a penalty, which may extend to twice the quarterly tax in respect of that vehicle to be levied by such officer, by order in writing and in such manner as may be prescribed.

13. Arrears of tax, penalty or fine recoverable as an arrear of land revenue. — Any tax, penalty or fine due under this Act and not paid within the time specified for the same may be recovered in the same manner as an arrear of land revenue, and the motor vehicle in respect of which the tax, penalty or fine is due or its accessories may be distrained and sold, whether or not such motor vehicle or accessories are in the possession or control of the person liable to pay the tax, penalty, or fine.

14. Power to seize and detain motor vehicles in case of non-payment of tax. — Without prejudice to the provisions of sections 12 and 13, where any tax due in respect of any motor vehicle has not been paid as specified in section 4 or 7, such officer as may be prescribed, may seize and detain the motor vehicle in respect of which the tax is due under this Act and for this purpose take or cause to be taken any steps he may consider necessary for the temporary safe custody of the vehicle, until the tax due in respect of the vehicle is paid.

15. Transport vehicle permit to be ineffective if tax not paid. — Notwithstanding the provisions of the Motor Vehicles Act, 1939, if the tax or any instalment thereof due in respect of a transport vehicle is not paid within the prescribed period the validity of the permit for the vehicle shall become ineffective from the date of expiry of the said period until such time as the tax is actually paid.

(Central
Act 4
of 1939)

16. Appeals. — (1) Any person who is aggrieved by any order of a Taxation Authority under this Act may file an appeal before such person or autho-

rity in such manner, within such time, and on payment of such fees, as may be prescribed.

(2) The appeal shall be heard and decided in such manner as may be presented.

17. Power of police officer and the Motor Vehicles Department officers. — Any police officer, or officers of the Motor Vehicles Department, in uniform, not below such rank as may be prescribed by the Government in this behalf, may —

(a) enter, at any time between sunrise and sunset, any premises where he has reason to believe that a motor vehicle is kept, or

(b) require the driver of any motor vehicle in any public place, to stop such vehicle and cause it to remain stationary so long as may reasonably be necessary, for the purpose of satisfying himself that the amount of the tax due in accordance with the provisions of this Act in respect of such vehicle, has been paid.

18. Penalties. — (1) Whoever —

(a) as a registered owner or otherwise, has the possession or control of any motor vehicle used or kept for use in the Union territory without having paid the amount of the tax, or a additional tax, due in accordance with the provisions of this Act in respect of such vehicle, or

(b) delivers a declaration or additional declaration or special declaration wherein the particulars required by or under this Act to be therein set forth are not fully and truly stated, or

(c) obstructs any officer in exercise of the powers conferred by clause (a) of section 17 or fails to stop the motor vehicle when required so to do by such officer under clause (b) of that section, shall, on conviction, be punished —

(i) with fine which shall not be less than a sum equal to the quarterly tax payable in respect of such vehicle, and which may extend to a sum equal to the annual tax payable in respect of such vehicle, and

(ii) in the event of such persons having been previously convicted of an offence under this section, with fine which shall not be less than a sum equal to the tax payable in respect of such vehicle for two quarters, and which may extend to a sum equal to twice the annual tax payable in respect of such vehicle.

(2) The amount of any tax due shall be recoverable as if it were a fine.

19. Other Penalties. — Whoever contravenes any of the provisions of this Act, if no other penalty is elsewhere provided therein for such a contravention, shall on conviction, be punished with fine which may extend to one hundred rupees, and in the event of such person having been previously convicted of an offence under this Act, with fine which may extend to two hundred rupees.

20. Compounding of offences. — (1) The prescribed officer may either before or after the institution of proceedings for any offence punishable under clause (a) of sub-section (1) of section 18, accept from any person charged with such offence by way

of composition thereof such sum of money as may be prescribed, provided that the sum is paid within the prescribed time.

(2) On payment by such person of such sum together with the amount of tax, if any, due, such person, if in custody, shall be set at liberty, and if any proceedings in any criminal court have been instituted against such person in respect of the offence the composition shall be deemed to amount to an acquittal, and no further criminal proceedings shall be taken against such person in respect of such offence.

21. Trial of offences.—No court inferior to that of a Magistrate of the second class shall try an offence punishable under this Act.

22. Protection of action done in good faith.—No prosecution, suit or other proceedings shall lie against any person for anything in good faith done or intended to be done under this Act.

23. Power to remove difficulty.—If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Government Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary or expedient for removing the difficulty.

24. Power to make rules.—(1) The Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provision, the Government may make rules for all or any of the following matters, namely:—

(a) to prescribe the manner in which and the period within which the tax shall be paid;

(b) to prescribe the form of the tax token and tax licence under section 5;

(c) to prescribe the form of declaration, additional declaration and special declaration the particulars to be stated therein and the time within which the declaration should be delivered under section 6;

(d) to regulate the manner in which refund of tax may be claimed under section 9;

(e) to prescribe the instalments of contribution and the manner in which and the dates on which they shall be paid under section 10 and the manner in which the proceeds of tax shall be expended under that section;

(f) to provide for the total or partial exemption from liability to payment of the tax in respect of any class of motor vehicles, or such vehicles, belonging to a class of persons, the time within which the declaration shall be made in respect of such vehicles by such persons, the amount which shall be payable on account of such vehicles and the token which any such vehicle shall carry under section 11, and the manner in which the exemption may be claimed under that section;

(g) to prescribe the amount of penalty payable under section 12, the manner in which, the time

within which, and the officer to whom, such penalty shall be paid under that section;

(h) to prescribe the authority before which, the manner in which, the time within which, and the fee on payment of which an appeal may be filed and the manner in which such appeal shall be heard and decided, under section 16;

(i) to prescribe the rank of officer who may exercise powers under section 17;

(j) to prescribe the manner in which tax token shall be displayed;

(k) to provide for the supply of information regarding payment of tax and prescribe a fee therefor;

(l) any other matter which is required to be, or may be prescribed.

(3) A rule made under this section may provide that the contravention of any of the provisions thereof shall be punishable with fine, which may extend to two hundred rupees.

(4) All rules made under this section shall be published in the Official Gazette.

(5) All rules made under this Act shall be laid on the table of the Legislative Assembly for not less than fourteen days, as soon as possible after they are made and shall be subject to such modification as the Assembly may make during the session in which they are so laid, or the session immediately following.

25. Repeal and savings.—On the commencement of this Act, the Punjab Motor Vehicles Taxation Act, 1924 as extended to the Union territory of Goa, Daman and Diu shall stand repealed.

Provided that such repeal shall not affect—

(a) the previous operation of the law so repealed or anything duly done or suffered thereunder;

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the law so repealed;

(c) any penalty, forfeiture, or punishment incurred in respect of any offence committed against the law so repealed; or

(d) any investigation, legal proceedings, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, legal proceedings or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture and punishment may be imposed as if this Act had not been passed:

Provided further that, subject to the preceding proviso, anything, done or any action taken (including any rules made) under the Punjab Motor Vehicles Taxation Act, 1924 as extended to the Union territory of Goa, Daman and Diu, or any notification or orders issued, rate of tax fixed, the levy, assessment whether provisional or final and collection of tax made, tax token or tax licences issued or surrendered, exemption granted, application for refund of tax made or refund paid, declaration delivered, under the said law shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding

provisions of this Act, and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act:

Provided also that, subject to the preceding provisions, any tax imposed or recovered under the provisions of the Punjab Motor Vehicles Taxation Act, 1924 as extended to the Union territory of Goa, Daman and Diu shall be deemed to have been validly imposed and or recovered under the provisions of this Act and all arrears of tax and other amounts due at the commencement of this Act may be recovered as if they had accrued under this Act.

SCHEDULE

Schedule of Taxation

(Section 3)

Class of Motor Vehicles	Maximum Annual Rate of tax
A. Motor Vehicles fitted solely with pneumatic tyres	
I. Motor cycles and tricycles (including motor-scooters and cycles with attachment for propelling the same by mechanical power)	
(a) upto half horse power ...	Rs. 15-00
(b) more than half horse power	Rs. 40-00
(c) for every side car attached	Rs. 5-00
	(in addition to rates specified the above).
(d) tricycles:	
For every 25 Kgs. weight or part thereof ...	Rs. 12-00
II. Motor vehicles not exceeding 25 Kgs. in weight unladen adapted for use for invalids ...	Rs. 6-00
III. Goods Vehicles:	
For every 100 Kgs. of registered laden weight or part thereof:	
(i) driven on fuel other than diesel	Rs. 15-00
(ii) driven on diesel ...	Rs. 18-00
IV. Taxis and Auto Rickshaws:	
Taxis —	
(a) Up to 3 seaters ...	Rs. 225-00
(b) Up to 4 seaters ...	Rs. 250-00
(c) Up to 5 seaters ...	Rs. 270-00
For every additional seat up to a maximum of 7 seats ...	Rs. 25-00
Auto Rickshaws up to 2 seats ...	Rs. 60-00
V. Passenger Vehicles:	
(a) up to 18 seats ...	Rs. 600-00
(b) For every additional seat over 18 seats ...	Rs. 35-00
(c) For every passenger (other than seated passenger) which the vehicle is permitted to carry ...	Rs. 35-00
<i>Explanation: In Items (IV) and (V) above the seating capacity is to be determined exclusively of the driver's seat.</i>	
VI. Motor Vehicles other than those liable to tax under the foregoing provisions of the schedule:	
(a) Up to 1000 Kgs. weight unladen ...	Rs. 80-00

(b) Over 1000 Kgs. up to 2500 Kgs. weight unladen ...	Rs. 150-00
(c) Over 2500 Kgs. weight unladen up to 5000 Kgs....	Rs. 300-00
(d) Every 1000 Kgs. or part thereof in excess of 5000 Kgs. ...	Rs. 60-00

VII. Additional tax payable in respect of motor vehicles used for drawing trailers

(a) For each trailer when it is used for the carriage of goods	At the rates specified in Clause III in respect of motor vehicles used for the carriage of goods or material.
(b) For each trailer when used for the carriage of passengers	At the rates specified in Clause IV in respect of motor vehicles plying for hire and used for the carriage of passengers.

B. Motor Vehicles other than those fitted with pneumatic tyres The rates shown in Class A, plus 50 per-centum.

C. Dealers in, or manufacturers of, motor vehicles:

(a) General licence in respect of each vehicle ...	Rs. 75-00
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Statement of objects and reasons

The provisions of the Punjab Motor Vehicles Taxation Act, 1924 (4 of 1924) were, with some modifications, extended to this Union territory as per section 3(1) of the Goa, Daman and Diu (Laws) Regulation, 1962. The said provisions were further amended by this Government at the stage of the publication in the Government Gazette and before their being brought into force on 1-1-1965. Later the Legislative Assembly of this territory passed in the winter session of 1967 a Bill to further amend the said provisions. The said amending Bill as passed by the Assembly was, under Section 25 of the Government of Union Territories Act, 1963, reserved for the consideration of the President, by the Administrator. The President withheld his assent to the said Bill.

2. The present Bill has been drafted after a comparative study of the Motor Vehicles Taxation Act in force in the States of Andhra, Maharashtra, Mysore and Punjab.

Notes on clauses of the Goa, Daman and Diu Motor Vehicles Tax Bill 1973

Clause 1. — The Act will be called the Goa, Daman and Diu Motor Vehicles Tax Act, 1973.

Clause 3. — Stipulates that a tax shall be leviable on every motor vehicle used or kept for use in the Union territory at such rate not exceeding the rates specified in the Schedule to the Act as the Government may by notification in the Official Gazette specify.

Clause 4.—Stipulates that tax levied under Clause 3 shall be paid in advance by the registered owner or persons having possession or control of the Motor Vehicle for a quarter, half year or year, at his choice, and on such payment he shall be granted a quarterly, half yearly, or annual licence as the case may be.

In case of the annual licences such rebate in respect of the tax as may be prescribed shall be granted.

Clauses 5 to 7.—These clauses prescribe the procedure for payment of tax by the owner of the Motor Vehicle and issue of tax token and tax licences by Taxation Authorities on receipt of tax.

Clause 8.—When a motor vehicle in respect of which the tax remains unpaid is transferred or ceased to be in possession or control of its first owner, the liability to pay tax will be on the first as well as the new owner, under this clause.

Clause 9.—It provides for refund of tax.

Clause 10.—Lays down that the proceeds of the tax recovered shall first be credited to the Consolidated Fund of the Union territory and such proceeds, after deducting the expenses of collection not exceeding an amount equal to 15% thereof, shall, after due appropriation made by law in this behalf be paid to the local authority as contribution in such manner as the Government may from time to time determine.

Clause 11.—All Motor Vehicles designed and used solely for agricultural operation on farms and farm lands, are exempted from the payment of the tax under this clause. The Government is also empowered to make rules exempting either totally or partially any class of motor vehicles other than those designed and used for agricultural operations.

Clause 12.—This clause deals with penalty. If the tax due to be paid in respect of any motor vehicle is not paid as specified in Section 4 or 7, in addition to the amount of such tax a penalty not exceeding twice the amount of tax can be levied.

Clause 13.—The arrears of tax, penalty or fine can be recovered as arrears of land revenue.

Clause 14.—This clause empowers the officer prescribed to seize and detain the motor vehicles for non-payment of tax.

Clause 15.—In case of transport vehicle, if the tax is not paid within prescribed time the validity of the permit of such vehicle remains ineffective.

Clause 16.—There is a provision of appeals against the order of Taxation Authority.

Clause 17.—The Police Officers and the officers of the Motor Vehicles Department have been empowered to enter into premises or stop motor vehicles for checking purpose.

Clauses 18 to 20.—These clauses contain provisions regarding prosecution, quantum of penalty and compounding of offences.

Clause 21.—No Court inferior to the Court of Second Class Magistrate can try offences under this Act.

Clause 22.—Officers doing bonafide acts are protected from prosecutions, etc.

Clause 23.—This clause empowers the Government to issue orders not inconsistent with the Act to remove difficulties, if any, experienced while administering the Act.

Clause 24.—This clause empowers the Govt. for framing of Rules for carrying out the purpose of this Act such Rules shall be laid on the table of the Legislative Assembly.

Clause 25.—Since this will be a consolidated Act in place of the existing Act, there are provisions regarding repeal of the present Act, savings of the proceedings started under that Act, validation of the actions taken under that Act.

Schedule of rate of tax.—The schedule indicates the maximum rates of tax leviable per annum.

Financial Memorandum

The Bill does not entail additional expenditure as only the existing rates of Motor Vehicles Tax will be raised. The tax will be recovered by the existing machinery.

2. The anticipated annual additional revenue from the revised rates of tax will be Rs. 11 lakh approximately.

3. The proceeds of the Motor Vehicles Tax are first to be credited to the Consolidated Fund of Union territory and after deducting the expenses of collection not exceeding an amount equal to 15% of such proceeds, are to be paid to the local authorities who will be expected to expend this amount solely on construction, improvement and maintenance of roads and similar purposes.

Delegated Legislation Memorandum

Clause 24 of the Bill empowers the Government to make rules to carry out the purposes of the Act. These powers are of a normal character providing only for the details of procedure for facilitating the working of this Act.

Panaji,
19th September, 1973

S. G. KAKODKAR
Chief Minister

Assembly Hall,
Panaji.

B. M. MASURKAR
Secretary to the Legislative
Assembly of Goa, Daman and Diu

Administrator's recommendation under Section 23 of the Government of Union Territories Act, 1963.

In pursuance of Clause (a) of sub-section 1 of Section 23 of the Government of Union Territories Act, 1963, the Administrator of Goa, Daman and Diu has recommended to the Legislative Assembly of Goa, Daman and Diu the introduction and consideration of the Goa, Daman and Diu Motor Vehicles Tax Bill, 1973.

LA/B/7/20/1931/73

The following Report of the Select Committee on Bill No. 20 of 1972 (The Goa, Daman and Diu Chit Funds Bill, 1972) along with the Bill as amended by the Select Committee which was presented to the Legislative Assembly of Goa, Daman and Diu, on 25th September, 1973 is hereby published for general information in pursuance of the provisions of Rule 260 of the Rules of Procedure and Conduct of Business of Legislative Assembly.

(Bill No. 20 of 1972)

A

BILL

to provide for the regulation of chit funds in the Union territory of Goa, Daman and Diu.

COMPOSITION OF THE SELECT COMMITTEE

CHAIRMAN

1. Shri Pratapsingh Rane, Minister for Law — Minister in-charge of the Bill.

MEMBERS

2. Shri C. U. Chodankar, Deputy Speaker.
3. Dr. Jack de Sequeira, Leader of Opposition.
4. Shri R. S. Fernandes.
5. Shri V. S. Joshi.
6. Shri Eduardo Faleiro.
7. Shri Rohidas H. Naik.
8. Shri Baban A. Naik.

SECRETARIAT

Law and Legislature Department

Shri B. M. Masurkar, Secretary.

Shri M. M. Naik, Under Secretary, Legislature.

Report of the Select Committee

1. I, the Chairman of the Select Committee to which Bill No. 20 of 1972 (a Bill to provide for the regulation of chit funds) was referred, having been authorised by the Committee to submit the report on its behalf, present its report with the Bill as amended by the Committee, annexed hereto.

2. The Bill was introduced in the Legislative Assembly on 30th November, 1972. The motion for reference of the Bill to the Select Committee was passed by the House on 6th March, 1973.

3. The Committee held 12 sittings, in all. In its preliminary meeting held on 8th March, 1973 the Committee decided to invite suggestions from Members of the Legislative Assembly and also from public. Accordingly Honourable Members of the Legislative Assembly were requested through Bulletin Part II and members of the public, including lawyers, by a press note to send their amendments and suggestions, if any, on or before 17th March, 1973. The Committee did not have the benefit of the suggestions and amendments either from the Honourable Members of the Legislative Assembly or from the members of the public including lawyers. In its meeting held on 8th August, 1973 the Committee heard the evidence tendered by the representatives of the Sudarsan Chit Funds and Garuda Chit and Trading Co. Pvt. Ltd.

The provisions of the Bill were examined clause by clause. Wherever found necessary changes were made and incorporated in the draft annexed to this report. The report was adopted in the meeting held on 3rd September, 1973.

The observations of the Committee, with regard to the important changes proposed in the Bill are enumerated in the succeeding paragraphs.

Clause 1(3). — The expression "and different dates may be appointed for different areas and for different provisions of this Act" occurring in this sub-clause has been deleted as it is not considered necessary to have a provision for appointment of different date for enforcement of the Act in different areas and also for different provisions of this Act.

Clause 2(1). — The definition of the term 'approved bank' has been modified to mean also a nationalized or scheduled bank in order to give the foreman the facility of depositing the amounts in respect of chit in a nationalised or scheduled bank in addition to bank approved by Government.

Clause 2(2). — The Committee is of the opinion that the Act may be restricted only to money transactions as there may not be any organizations conducting grain transactions and hence the words 'or a certain quantity of grain' appearing in the definition of the term "chit" has been dropped. Consequential changes wherever found necessary have been made.

New Clause 2(5). — An attempt has been made to define the term "Chit Book" as the term which occurs in clause 38 had not been defined. The remaining sub-clauses have been renumbered.

Original Clause 2(5). — Amendment suggested to the sub-clause is in consequence to those proposed in clauses 20 and 25. According to the Committee only those subscribers who default in payment of two consecutive subscriptions may be declared as defaulting subscribers.

Original Clauses 2(13) and (16). — The definition envisages the possibility of two or more persons holding one ticket which may give rise to complications and disputes among such subscribers themselves. The Committee, is, therefore, of the opinion that the subscriber may not be given the facility to hold a fraction of a ticket. Changes are accordingly made in the definition of the terms "prize amount" and "subscriber".

Clause 9. — Under the provisions of this clause a chit agreement can be altered, added to or cancelled with the consent in writing of the foreman and all the subscribers to the chit but no mention is made that as in the case of original chit agreement, such a chit agreement as altered added to or an agreement to cancel should be filed with the Registrar. Hence, sub-clause (2) has been incorporated to fill up this lacuna.

Clause 12. — Under sub-clause 1(a) the foreman had been given an option to furnish the security by executing an indenture of mortgage and trust in favour of the Registrar as trustee charging by way of security property sufficient to the satisfaction of the Registrar for the realisation of the chit amount. The expression "to the satisfaction of the Registrar" has been deleted and an explanation has been added explaining what will be considered as property sufficient for realisation of the chit amount. In sub-clause (4) ten thousand rupees has been enhanced to twenty-five thousand.

Clause 13. — As per sub-clause (2) of clause 13, Registrar is the final authority to decide any dispute in regard to the value of the property to be offered as security by the prized subscriber, sub-clause (2) is redrafted and a new sub-clause has been incorporated thereby making the decision of Registrar appealable.

Clause 16. — Clause 16 has been slightly redrafted.

Clause 19. — A new sub-clause has been added providing that a non-prized subscriber who defaults in paying any one of his subscriptions in accordance with the terms of the chit agreement shall in no way be entitled for the benefit of dividend in respect of the instalment which he defaults.

Clause 20. — Sub-clause (1) has been changed and according to the new clause proposed only those non-prized subscribers who default in

paying two consecutive subscriptions in accordance with the chit agreement shall be removed from the list of subscribers.

The object is to have a uniform law for all the chits so far as removal of non-prized subscriber is concerned. Otherwise the provision for removal will vary according to the chit agreement.

A new sub-clause (6) has been added thereby specifying that during the pendency of appeal, the subscription payable by the defaulting subscriber shall be advanced by the foreman.

Clause 21.—As in clause 20, a proviso has been added to specify that until a subscriber has been substituted in place of a defaulting subscriber, the subscription payable by a defaulting subscriber shall be advanced by the foreman.

Clause 25.—Clause 25 has been redrafted. According to new sub-clause (1), on payment of his subscription a prized subscriber shall be entitled to get a receipt from the foreman. Sub-clause (2) provides that for every belated payment of subscription, a penalty shall be imposed on the prized subscriber as specified in the chit agreement. As per sub-clause (3) of clause 25, only those prized-subscribers who default in paying two consecutive subscriptions in accordance with the chit agreement shall be liable to make a consolidated payment.

Clause 27.—Clause 27 has been redrafted. As per the new provision proposed, transfer of foreman's right to receive subscriptions from prized subscriber can be made only after obtaining the assent of all non-prized subscribers or unpaid prized subscribers. The burden of proving that the foreman was in solvent circumstances at the time of the transfer and the transfer is not likely to affect prejudicially the interest of any non-prized subscriber or unpaid prized subscriber has been shifted from the transferee to the transferor.

Clause 54.—A new sub-clause has been added thereby making it obligatory on the part of the Registrar to give certified copies of any document or extract of document within seven days from the date of application.

Clause 57.—The penalty of jail sentence provided in this clause has been enhanced from one year to two years, and the fine from five hundred rupees to one thousand rupees and from one hundred rupees to two hundred rupees so as to be more deterrent.

Clause 58.—The Clause provides that no court inferior to that of Magistrate of the first class shall try any offence under this Act but the clause is silent as to the Officer by whom a complaint has to be filed. A proviso has been added to fill up this gap.

Clause 60.—A new sub-clause has been added to state that the provisions of section 102 of the Code of Criminal Procedure, 1898 shall apply to a search to be conducted by the Registrar or Inspecting Officer under this section.

Clause 67.—Clause 67 has been modified. According to the new clause proposed, only those institutions rendering service of charitable nature can be exempted. The exemption is also restricted to only those provisions other than clause 12, wherein the foreman has to furnish security.

Clause 68.—The stamp duty on the chit agreement has been enhanced from rupee one to rupee one and fifty paise. The other changes proposed are of drafting nature.

Clause 70.—Clause 70 has been deleted, as it does not appear to be a valid provision.

The Committee would like to place on record its appreciation for the valuable guidance given by Shri B. M. Masurkar, Secretary Law and Legislature and also for the assistance rendered by Shri M. M. Naik, Under Secretary Legislature, in its deliberations.

Assembly Hall,
Panaji, 3rd September, 1973.

PRATAPSINGH RANE
Chairman

NOTE

by

Dr. Jack de Sequeira, Leader of Opposition,
Shri R. S. Fernandes, M. L. A. and
Shri Eduardo Faleiro, M. L. A.

We feel that chit funds are organisations where the people can be hoodwinked and cheated, fairly easily, by any unscrupulous individuals who may get to run these funds. And that chit funds should, therefore, be banned.

On this matter, we read in "Commerce", issue of 25th August, 1973, a very interesting report under the heading "Chit Funds: Boon or fraud?" by Mr. K. S. C. Pillai.

The feeling expressed therein by Mr. Justice Choor Singh, represents more or less our way of thinking.

In Goa, too, the experience with chit funds in the past has not been good. Of course, there has been no controlling legislation, and this is the first attempt made in that respect.

During the meetings of the Select Committee we have always expressed our fear and doubts, but our colleagues from the Treasury Benches, who form the majority in this Select Committee, thought that we should give these chit funds a chance and a trial.

With an open mind to this end, we gave full and complete collaboration to the Committee to frame good legislation and control to the extent possible all irregularities which might be committed, both on the side of the organisers as well as the subscribers.

Although the Bill might not be completely watertight, an honest attempt has been made to make it as close as possible to it.

We would recommend that this Legislation should be given a trial and that every year, a review should be made at the level of Hon. Members of this Assembly, based on a report from the Law Department of Government, and the necessary amendments made in the light of experience.

It is with these reservations that we sign this Report for consideration of the House.

Dr. Jack de Sequeira, Leader of Opposition.
Panaji, Shri R. S. Fernandes, M.L.A.
11th September, 1973 Shri Eduardo Faleiro, M.L.A.

[Note. — Deletions made by the Select Committee are shown in square brackets, and additions and substitutions made are underlined].

The Goa, Daman and Diu Chit Funds Bill, 1972

(Bill No. 20 of 1972)

(As amended by the Select Committee)

A

BILL

to provide for the regulation of chit funds in the Union territory of Goa, Daman and Diu.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the [Twenty-third] Twenty-fourth Year of the Republic of India as follows: —

CHAPTER I

Preliminary

1. Short title, extent and commencement. — (1) This Act may be called the Goa, Daman and Diu Chit Funds Act, [1972] 1973.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint. [and different dates may be appointed for different areas and for different provisions of this Act.]

2. Definitions. — In this Act, unless the context otherwise requires,—

(1) "approved bank" means a nationalised bank or a scheduled bank or a bank approved by the Government;

(2) "chit" means a transaction whether called chit fund, chit kuri or by any other name, by which its foreman enters in an agreement with a number of subscribers that every one of them shall subscribe a certain sum [or a certain quantity of grain] by instalments for a definite period and that each subscriber in his turn as determined by lot or by auction or by tender or in such other manner as may be provided for in the agreement, shall be entitled to a prize amount;

Explanation. — A transaction is not a chit within the meaning of this clause, if in such transaction —

(a) some alone, but not all, of the subscribers get the prize amount without liability to pay future subscriptions; or

(b) all the subscribers get the whole [or] of the chit amount by turns with a liability to pay future subscriptions.

Illustration. — There are 100 subscribers to a chit and the subscription by each of them is ten rupees. All the subscribers get by turn one thousand rupees being the whole of the chit amount and are liable to pay future subscriptions. The transaction falls within clause (b) of the above explanation and is not a chit;

(3) "chit agreement" means a document containing the articles of agreement between the foreman and the subscribers relating to the chit;

(4) "chit amount" means the sum total of the subscriptions payable by all the subscribers for any instalment of a chit without any deduction for discount or otherwise;

(5) "Chit Book" means a book in which a record of all the subscribers to a chit is maintained by the foreman in respect of subscription paid by each subscriber to the chit, the prize-amount received by any subscriber and which shall contain such other particulars relating to the chit in such form as may be prescribed.

[(5)] (6) "defaulting subscriber" means a subscriber who has defaulted in the payment of two consecutive subscriptions due according to the terms of the chit agreement;

[(6)] (7) "discount" means the sum [or the quantity of grain] which a prized subscriber has under the terms of the chit agreement to forego and which is set apart under the said agreement to meet the expenses of running the chit or for distribution among the subscriber or for both;

[(7)] (8) "dividend" means the share of a subscriber in the discount available under the chit agreement for rateable distribution among the subscribers at each instalment of the chit;

[(8)] (9) "drawing" means ascertaining of the person or persons entitled to the prize amount at any instalment of a chit.

[(9)] (10) "firm" means a firm registered under the Indian partnership Act, 1932, (Central Act 9 of 1932) as applied to the Union territory;

[(10)] (11) "foreman" means the person who under the chit agreement is responsible for the conduct of the chit and includes any other person discharging the functions of the foreman under section [30] 31;

Provided that no firm shall be foreman unless such firm is [re] registered under the Indian Partnership Act, 1932. (Central Act 9 of 1932);

[(11)] (12) "Government" means the Administrator appointed by the President under article 239 of the Constitution;

[(12)] (13) "non-prized subscriber" does not include a defaulting subscriber; [who has defaulted in the payment of subscription due according to the terms of the chit agreement;]

[(13)] (14) "prize amount" means the difference between the chit amount and the discount; [and in the case of a fraction of a ticket means the difference between the chit amount and the discount, proportionate to the fraction of the ticket; and when the prize amount is payable otherwise than in cash, the value of the prize amount shall be the value at the time it becomes payable]

[(14)] (15) "prized subscriber" means a subscriber who has either received or is entitled to the prize amount;

[(15)] (16) "[r]Registrar" means a [r] Registrar appointed under [S] sub-section (1) of section 52;

[(16)] (17) "subscriber" includes [a person who holds a fraction of a ticket and also] a transferee of a ticket [or a fraction thereof] by assignment in writing or by operation of law;

[(17)] (18) "ticket" means the share [or] of a subscriber in a chit;

[(18)] (19) "[u] Union territory" means the Union territory of Goa, Daman and Diu.

CHAPTER II

Constitution and Registration

3. **Registration of bye-laws.**— (1) Save as otherwise provided in this Act, no person shall start or conduct any chit unless he has registered with the Registrar the proposed bye-laws of the chit.

(2) Save with the permission of the Government, no [chitty] chit shall extend in duration for a period of more than five years.

(3) For the purpose of registration, there shall be filed with the Registrar the bye-laws of the chit in duplicate signed by the foreman and attested by at least two witnesses.

(4) The Registrar, on being satisfied that the bye-laws are not contrary to this Act or to the rules made thereunder, shall issue to the foreman a certificate of registration and such certificate shall be conclusive evidence that the bye-laws of the chit therein mentioned are registered.

(5) The Registrar shall retain the bye-laws of the chit and return the duplicate of the bye-laws to the foreman with an endorsement that the bye-laws have been registered.

4. **Prohibition of invitation for subscription to chit of which bye-laws have not been registered.**— No person shall issue or publish any notice, circular, prospectus or other document containing the terms and conditions of any chit or inviting the public to subscribe for tickets in any chit unless such notice, circular prospectus or other document relates to a chit, the bye-laws of which have been registered.

5. **Form of chit agreement.**— Every chit agreement shall be in duplicate and shall be signed by each subscriber or by a person authorized in that behalf in writing by the subscriber and the foreman and attested by at least two witnesses, and it shall contain the following particulars namely:—

(1) [T]the full name and the permanent residential address of every subscriber;

(2) the tickets held by each subscriber;

(3) the number of instalments and the amount payable in respect of each ticket for each instalment;

(4) the dates of commencement and termination of the chit;

(5) the mode of ascertaining the prized subscriber;

(6) the amount of discount which the prized subscriber at any instalment has to forego;

- (7) the mode and proportion in which the discount is distributable by way of dividend, foreman's commission and other expenses, if any;
- (8) the date, time and place at which the chit is to be drawn;
- (9) if under the chit agreement the foreman is entitled to the chit amount, the instalment at which the foreman is to get the chit amount;
- (10) the approved bank or banks in which chit moneys shall be deposited by the foreman under the provisions of this Act;
- (11) the manner in which a chit shall be continued where a foreman who is an individual dies or becomes of unsound mind; and
- (12) any other particulars which may be prescribed.

Explanation. — It is sufficient to get the signature of each subscriber on separate copies of the agreement.

6. Filing of chit agreement. — (1) Every chit agreement with its duplicate shall be filed with the Registrar.

(2) The Registrar shall retain the chit agreement and return the duplicate chit agreement to the foreman with an endorsement that the chit agreement is filed.

7. Commencement of chit business. — (1) No person shall commence any auction or drawing of any chit unless he has obtained a certificate of commencement from the Registrar.

(2) The Registrar shall, on being satisfied that the bye-laws of the chit have been registered and the chit agreement has been filed and the security required under section 12 has been furnished by the foreman, grant a certificate of commencement.

8. Copies of bye-laws and chit agreement to be given to subscribers. —

(1) The foreman shall, as soon as may be after he has obtained the certificate of commencement referred to in section 7, but not later than the date of the first drawing of the chit, furnish to every subscriber a copy of the bye-laws of the chit and the chit agreement certified by him to be a true copy.

(2) The foreman shall, within the fifteenth day of the month succeeding the month in which the first instalment of the chit is drawn, file with the Registrar a certificate to the effect that he has complied with the provisions of sub-section (1).

9. Alteration of chit agreement. — (1) The chit agreement shall not be altered, added to or cancelled except with the consent in writing of the foreman and all the subscribers to the chit:

Provided that such alterations, additions or cancellation shall be subject to the provisions of this Act and the Rules made thereunder.

(2) Every chit agreement as altered or added to or an agreement to cancel chit agreement as provided for in sub-section (1) shall be filed by the foreman with the Registrar with its duplicate and thereafter provisions of sub-section (2) of section 6 shall apply as in the case of original agreement filed in accordance with sub-section (1) of the said section.

10. Minutes of proceedings. — (1) The [M]minutes of the proceedings of every drawing shall be drawn up and entered in a book to be kept for that purpose and shall be signed by the foreman and all the subscribers present and shall also be signed by the prized subscriber or his authorised agent.

(2) Such minutes shall state clearly —

(i) the date and hour when the proceedings began and ended and the place where the drawing was held;

(ii) the number of the particular instalment of the chit of which proceedings are recorded;

(iii) the names of the subscribers present;

(iv) the person or persons who become entitled to the prize amount in the particular instalment;

(v) the amount of discount;

(vi) full particulars regarding the disposal of the prize amount in respect of the preceding instalment and disposal of unpaid prize amount, if any, in respect of any previous instalment; and

(vii) any other particulars which may be prescribed.

11. **Copy of minutes to be filed with Registrar.** — Every foreman shall within the fifteenth day of the month succeeding the month in which one or more instalments [or] of the same chit or one or more instalments of any other chit are drawn, file with the Registrar a copy of the minutes referred to in section 10 in respect of the drawings at all such instalments and certified by the foreman to be a true copy.

CHAPTER III

Foreman

12. **Security to be given by foreman.** — (1) For the proper conduct of the chit, every foreman shall, before applying for the certificate of commencement under section 7, —

(a) execute an indenture of mortgage and trust in favour of the Registrar as trustee charging by way of security property sufficient [to the satisfaction of the Registrar] for the realisation of the chit amount; or

(b) (i) deposit in any approved bank an amount of cash not less than half of the chit amount, or

(ii) invest in Government securities of the face value or market value whichever is less, of not less than half of the chit amount and transfer the amount so deposited or the Government securities in favour of the Registrar to be held in trust by him as security:

Provided that, where movable property is charged by way of security, only such kind of movable property as may be prescribed shall be so charged and such movable property shall be deposited in such manner and with such person or officer as may be prescribed.

Explanation: For the purpose of clause (a), security for realisation of the Chit amount is said to be sufficient if the market value of the property assessed in the manner prescribed is equal to the chit amount.

(2) Where a foreman conducts more than one chit, he shall furnish security in accordance with the provisions of sub-section (1) in respect of each such chit.

(3) Subject to the provisions of section 520 of the Companies Act, 1956, (Central Act 1 of 1956) the security given by the foreman under sub-section (1) shall not be liable to be attached in execution of a decree or otherwise —

(i) until the chit is terminated and the claims of all the subscribers are fully satisfied;

(ii) until all dues payable by the foreman under this Act to the Registrar or any other officers have been paid;

(iii) where owing to the default of the prized subscriber the prize amount due remains unpaid even after the termination of a chit until the foreman deposits such amount in an approved bank mentioned in the chit agreement and intimates in writing the fact of such deposit to the prized subscriber.

(4) No foreman shall be entitled to conduct at a time [chitties] chits the aggregate amount of which exceeds fifty percent of the total assets of the foreman or [ten thousand] twenty five thousand rupees whichever is lower:

Provided that the maximum limit of the [chitty] chit amount specified in this sub-section shall be rupees one lakh in the case of [chitties] chits of which the foreman is a banking company as defined in the Banking Regulation Act, 1949 (Central Act 10 of 1949).

Explanation. — In determining the total assets of a foreman for the purposes of this sub-section, the amount of the security furnished by him

under sub-section (1) shall be excluded if such amount is the amount of subscription received in advance from the subscribers.

(5) In calculating the aggregate amount of [chitties] chits conducted at a time by a foreman, the [chitties] chits conducted by all the members of the family of the foreman shall be taken into account.

Explanation. — For the purpose of this sub-section, the expression “members of the family of the foreman” means father, mother, husband, wife and children of the foreman, wholly dependent, on him and who have no independent assets sufficient to entitle them to conduct any [chitty] chit.

(6) The Registrar shall, after the termination of a chit and after satisfying himself that the requirements under clauses (i) to (iii) of sub-section (3) have been complied with, release the property charged by way of security or order the release of the cash security or the Government securities referred to in sub-section (1) and in so doing, he shall follow such procedure as may be prescribed.

(7) (a) The Registrar may, on an application made in this behalf by any foreman, instead of releasing the security under sub-section (6), accept the same as security in respect of any other chit or chits conducted by the same foreman;

(b) The Registrar shall, —

(i) where the value or amount of the security accepted is less than the value or amount specified in sub-section (1), require the foreman to furnish additional security to make up the deficit;

(ii) where the value or amount of the security is in excess of the amount of value required, release the excess thereof.

(8) Notwithstanding anything to the contrary contained in any other law the security furnished under this section shall not be dealt with by the foreman during the currency of the chit and any dealing by the foreman with respect thereto by way of transfer, charge mortgage or other encumbrances shall be void.

13. Rights of foreman. — (1) The foreman shall be entitled —

(a) in the absence of any provision in the chit agreement to the contrary to obtain the chit amount at the instalment specified in the chit agreement:

Provided that a foreman shall not be eligible to obtain more than one chit amount in a chit.

(b) to such commission or remuneration, not exceeding five per cent, of the chit amount, as may be fixed in the chit agreement;

(c) to receive and realise all contributions from the subscribers and to distribute the prize amounts to prized subscribers and the dividend among the subscribers;

(d) to demand sufficient security from any prized subscribers for the due payment of future subscriptions.

Explanation. — A security is said to be sufficient for the purposes of this clause, if its value exceeds by one third, or if it consists of [buildings] immovable property, the value exceeds by one half, the amount due from the prized subscriber;

(e) to substitute subscribers in the place of defaulters; and

(f) to do all other acts that may be necessary for the due and proper conduct of the chit.

(2) (a) In case of any dispute in regard to the value of the property offered as security under clause (d) of sub-section (1), the matter shall be referred by the subscriber to the Registrar, [whose decision thereon shall be final] who shall, after giving the parties an opportunity of being heard, pass such order as he thinks fit.

(b) Any person aggrieved by the decision of the Registrar may, within seven days of the communication to him of such order, appeal to the Director of Chits, whose decision thereon shall be final.

14. Duties of foreman. — (1) The foreman shall, on prized subscriber furnishing sufficient security for the due payment of future subscription be bound to pay him the prize amount:

Provided that the prized subscriber shall be entitled to demand immediate payment of the prize amount after, deducting all future subscriptions without any security whatsoever, and in such case the foreman shall, before the date of the next succeeding instalment, deposit in an approved bank mentioned in the chit agreement the amount of future subscriptions deducted as aforesaid and he shall not withdraw the amount so deposited except for payment of [further] future subscriptions.

(2) If, owing to the default of the prized subscriber, the prize amount due in respect of any drawing remains unpaid before the date of the next succeeding drawing, the foreman shall deposit the same forthwith in an approved bank mentioned in the chit agreement and intimate in writing the fact of such deposit to the prized subscriber.

(3) Every payment of the prize amount, the deposit of the amount of future subscriptions under sub-section (1) and the deposit of the prize amount under sub-section (2) shall be intimated to the subscribers at the next succeeding drawing, and particulars of such payment or deposit entered in the minutes of the proceedings of that drawing.

(4) The foreman shall not appropriate for himself any amount in excess of what he is entitled to under clauses (a) and (b) of sub-section (1) of section 13;

Provided that the foreman may appropriate for himself the interest accruing on the amount deposited under the proviso to sub-section (1).

15. Registers and books of account. — The foreman shall keep such registers and books of account, and in such form, as may be prescribed.

16. Balance sheet. — (1) Every foreman shall prepare and file with the Registrar in such manner and within such time as may be prescribed, a balance sheet relating to the period of account duly audited either by auditors duly qualified to act as auditors of companies under the Companies Act, 1956 (Central Act 1 of 1956) or by a Chit Auditor appointed under sub-section (2) of section [51] 52. [and relating to the period of account]

(2) The balance sheet referred to in sub-section (1) shall —

(a) contain a summary of the assets and liabilities of the chit; and

(b) give such particulars as will disclose the nature of the assets and liabilities and how the value of the assets has been arrived at.

17. Liability of foreman to the subscribers. — (1) Every foreman shall be liable to account to the subscribers for the amounts due to them.

(2) Where there are more than one foreman, each one of them jointly and severally or if the foreman is a firm, each one of the partners thereof jointly and severally and if the foreman is a Statutory Corporation or a Company registered under the Companies Act, 1956 (Central Act 1 of 1956), the Corporation or the Company as such shall be liable to the subscribers in respect of the obligations arising out of the chit.

18. Withdrawal of foreman. — Where there are more than one person as foreman in a chit, none of them shall withdraw from it until the termination of the chit unless such withdrawal is assented to by all the non-prized subscribers and unpaid prized subscribers and a copy of such assent has been filed as required by section 33. Such withdrawal shall not, however, affect the security given under section 12.

CHAPTER IV

Non-prized Subscribers

19. Non-prized subscribers to pay subscription and get Receipt. — (1) Every non-prized subscriber shall pay his subscription at the time

and place mentioned in the chit agreement and shall on such payment be entitled to get a receipt from the foreman.

(2) A non-prized subscriber who defaults in paying his subscription in accordance with the terms of the chit agreement shall in no way be entitled for the benefit of dividend, in respect of the instalment for which he defaults.

20. Removal of defaulting subscribers. — (1) A non-prized defaulting subscriber [who defaults in paying his subscription in accordance with the terms of the chit agreement] shall be liable to have his name removed from the list of subscribers.

(2) Every removal under sub-section (1) shall, with the date thereof, be entered in the relevant book maintained by the foreman and a written notice of such removal shall be given by the foreman to the defaulting subscriber within fourteen days of such removal.

(3) A true copy of the entry referred to in sub-section (1) shall be filed by the foreman with the Registrar within fourteen days from the date of such removal.

(4) Any defaulting subscriber aggrieved by the removal of his name from the list of subscribers may, within seven days of the communication to him of the notice of removal, appeal to the Registrar.

(5) The Registrar [may] shall, after giving the parties an opportunity of being heard, pass such orders on the appeal as he thinks fit and the decision of the Registrar shall be final.

(6) When an appeal has been preferred under sub-section (4) subscription payable by the defaulting subscriber during the pendency of the appeal shall be advanced by the foreman.

21. Substitution. — (1) The foreman may substitute in the list of subscribers any person in place of a defaulting subscriber whose name have been removed from such list under sub-section (1) of section 20:

Provided that no such substitution shall be made until the expiry of the period allowed for appeal under sub-section (4) of section 20, or where any such appeal has been preferred, until the same has been disposed of.

Provided further that until any person has been substituted in place of a defaulting subscriber, the subscription payable by a defaulting subscriber shall be advanced by the foreman.

(2) Every substitution referred to in sub-section (1) shall, with the date thereof, be entered in the relevant book maintained by the foreman. A true copy of every such entry shall be filed by the foreman with the Registrar within fourteen days from the date of substitution.

(3) All arrears of subscriptions realised from the substituted subscriber, less amount advanced by the foreman, foreman's Commission, dividend allowed, shall before the date of the next succeeding instalment, be deposited by the foreman in an approved bank mentioned in the chit agreement. The foreman shall not withdraw the amount so deposited except for payment to the defaulting subscriber.

Explanation. — For the purposes of sub-section (3), 'arrears of subscriptions' shall mean all the previous instalments realised from the substituted subscriber.

22. Amount due to defaulting subscriber how dealt with. — (1) When a substituted subscriber draws the prize amount, the defaulting subscriber shall be entitled to recover from the foreman his contributions, subject to such deductions as may be provided for in the chit agreement.

(2) The foreman shall on demand made by the defaulting subscriber and on his executing an acknowledgement duly signed, be bound to pay to the defaulting subscriber the amount due to him before the date of the next succeeding instalment.

(3) Where the defaulting subscriber fails to furnish the acknowledgement as aforesaid, the foreman shall, before the date of next succeeding instalment, deposit in an approved bank the amount due to the defaulting subscriber and the amount so deposited shall not be withdrawn by the foreman for any purpose other than for payment to the defaulting subscriber.

23. How meetings to be held. — (1) The foreman may, on his own initiative convene a special meeting of the general body of subscribers for considering proposal to pass a special resolution.

(2) The foreman shall convene such a meeting on the requisition in writing of not less than twenty five per cent of the number of non-prized and unpaid prized subscribers, and the meeting so convened shall be held within thirty days of the date of the receipt of the requisition and if the foreman refuses or fails to call the meeting within fourteen days of the receipt of such requisition, the meeting may be convened by not less than twenty five per cent, of the number of the non-prized and unpaid prized subscribers.

(3) If the foreman refuses or fails to convene a meeting as required by sub-section (2), he shall be punishable with fine which may extend to one hundred rupees.

(4) Notice of not less than fourteen days shall be given to all subscribers of a meeting under this section specifying the object, date, hour and place of the meeting and a copy of the proposed special resolution shall also be sent along with the notice.

(5) The meeting shall elect its own chairman.

CHAPTER V

Prized Subscribers

24. Prized subscriber to give security. — Before receiving the prize amount without deducting all future subscriptions, every prized subscriber shall furnish and the foreman shall take sufficient security, as provided in the explanation to clause (d) of sub-section (1) of section 13, for the due payment of future subscriptions and if the foreman is the prized subscriber, he shall give security for the due payment of future subscriptions to the satisfaction of the Registrar.

25. Prized subscriber to pay the subscriptions regularly. — (1) Every prized subscriber shall pay his subscriptions regularly at the time and place and on the date mentioned in the chit agreement and shall on such payment be entitled to get a receipt from the foreman. [on his failure to do so, he shall be liable to make a consolidated payment of all the future subscriptions at once.]

(2) For every belated payment of subscription, a prized subscriber is liable to pay such penalty as specified in the chit agreement.

(3) Every prized subscriber, who fails to pay two consecutive subscriptions in accordance with the terms of the chit agreement shall be liable to make a consolidated payment of all future subscriptions at once.

26. Foreman to demand future subscriptions by written notice. —

(1) A foreman shall not be entitled to claim consolidated payment of all the future subscriptions from a defaulting prized subscriber unless he shall have demanded the same in writing.

(2) If in a suit by a foreman for consolidated payment of future subscriptions from a defaulting prized subscriber the defendant pays into court on or before the date to which the suit is posted for hearing, the arrears of subscriptions till that date together with interest thereon at the rate provided for in the chit agreement or at twelve per cent per annum simple interest whichever is lower, and the costs of the suit for payment to the plaintiff, then notwithstanding any contract to the contrary court shall pass a decree directing that the defendant shall deposit in court for payment to the plaintiff, the future subscriptions on or before the dates on which they fall due and that in default of payment by the defendant of any future subscription on or before the due date the plaintiff

shall be at liberty to realise in execution all the future subscriptions and interest thereon, less the amount, if any, already deposited by the defendant:

Provided that if any such suit is upon a promissory note no decree shall be passed under this sub-section unless such promissory note expressly states that the amount due under the promissory note is towards payment of subscriptions to the chit.

(3) Any person who holds an interest in the property furnished as security or any part thereof shall be entitled to make payment under sub-section (2).

(4) All consolidated payments of future subscriptions realised by a foreman shall be deposited in an approved bank before the date of the next succeeding instalment and the amount so deposited may be withdrawn only for payment of future subscriptions. When any property is acquired in lieu of the consolidated payment, it shall remain as security for the due payment of future subscriptions.

CHAPTER VI

Transfer

27. Restrictions on transfer of right of foreman. — (1) No transfer of the right of a foreman to receive subscriptions from prized subscribers shall be made unless such transfer is assented to by all the non-prized subscribers and unpaid prized subscribers and a copy of such assent has been filed by the foreman with the Registrar, who shall sanction such transfer provided he is satisfied that such transfer is not in contravention to any of the provisions of this Act and the rules made thereunder [without the previous sanction in writing of the Registrar].

[(2) Any such transfer of the rights of a foreman to receive subscriptions from a prized subscriber shall, if it is likely to affect prejudicially the interest of any non-prized subscriber or unpaid prized subscriber, be set aside on application by such subscriber to such officer as may be empowered by the Government in this behalf.]

[(3)] (2) When [under sub-section (2)] a transfer under sub-section (1) is objected to [disputed] by a subscriber, the burden of proving that the foreman who intends to transfer his right was in solvent circumstances at the time of the transfer and that the transfer is not likely to affect prejudicially the interest of any such subscriber is upon such foreman [the transferee].

28. Transfer of non-prized subscriber's rights to be in writing. — Every transfer by a non-prized subscriber of his rights in the chit shall be in writing duly attested by at least two witnesses and shall be filed with the foreman.

29. Recognition of transfer by the foreman. — Every transfer under section [27] 28 shall be recognised by the foreman, unless the transferee is not solvent or the transfer was effected with a view to defeat the provisions of any law.

30. Entry of transferee's name in the book. — Every transfer made under section [26] 27 or section [27] 28 shall be entered by the foreman in the books of the chit forthwith and a true copy of such entry shall be filed by the foreman with the Registrar within fourteen days from the date of such entry.

CHAPTER VII

Termination of Chits

31. Provisions for continuation of chit in certain cases. — Where the foreman who is an individual dies or becomes of unsound mind, the chit may be continued in accordance with the provisions of the chit agreement.

32. Termination of chit.— A chit shall be deemed to have terminated —

(a) When the period fixed in the chit agreement has expired, provided payment of dues to all the subscribers has been completed; or

(b) When all the non-prized and unpaid prized subscribers consent in writing to the termination of the chit and a copy of such consent is filed as required by section 33; or

(c) When a foreman, who is an individual, dies or becomes of unsound mind and the chit is not continued in accordance with the provisions of the chit agreement:

Provided that in the case of a foreman which is a firm, if a partner dies or becomes of unsound mind, the chit shall not be deemed to have terminated and the surviving partner or partners shall conduct the chit in the absence of any provision to the contrary in the chit agreement.

33. Copy of assent or consent to be filed with the Registrar.— A true copy of every assent mentioned in section 18 and of every consent mentioned in section 32, with the date of such assent or consent shall be filed by the foreman or by the remaining foreman or foremen, as the case may be, with the Registrar within fourteen days from the date of such assent or consent.

34. Refund of non-prized subscribers contributions.— Except in the cases referred to in clauses (a) and (b) of section 32 —

(a) Every non-prized subscriber shall, unless otherwise provided for in the chit agreement, be entitled to get back his contribution at the termination of the chit without deduction for dividend, if any, received by him:

Provided that any person to whom the rights of a non-prized subscriber are transferred under sections [27, 28, & 29] 28, 29 and 30 shall, in addition to his own contributions, be entitled to get back the contribution, made by such non-prized subscriber, subject to the conditions specified in this clause;

(b) if the chit terminates on a date earlier than the date originally fixed in the chit agreement, the non-prized subscriber's claim shall be deemed to have arisen on the date on which he has notice thereof.

35. Subscriber's dues to be first charge on chit assets.— Where there are debts due from the foreman of a chit in relation thereto and also other debts due from such foreman, the chit debts due to the subscribers shall be a first charge on the chit assets.

CHAPTER VIII

Inspection of Documents

36. Foreman to allow subscriber to examine chit records.— Every foreman shall, on payment of such fee not exceeding five rupees as may be specified in the chit agreement, allow non-prized and unpaid prized subscribers all reasonable facilities on all days of drawing of chits or on such days and within such hours as may be provided for in the chit agreement for the inspection of security bonds and documents, receipts and other records taken from the prized subscriber or furnished by the foreman himself in his capacity as a subscriber and all chit records including books of account and pass books, the balance sheets and profit and loss accounts and such other records as may show the actual financial position of the chit scheme.

37. Preservation of chit records by foreman.— All the records pertaining to a chit including the Chit Book shall be preserved intact by the foreman and kept for a period of six years from the date of the termination of the chit.

38. Inspection of Chit Book and other records.— (1) The Registrar or any Officer authorised by the Director of Chits in this behalf may inspect the Chit Books and all other records after giving [due] seven days notice in writing to the foreman.

(2) Every foreman shall be bound to produce the Chit Books and other records before the Registrar or the officer authorised under sub-section (1) at the time and place mentioned in the notice and shall furnish such information to him as he may require:

Provided that such inspection may be made at the premises of the foreman if he pays in advance such fees as may, be prescribed for the inspections:

Provided further that if the foreman is a banking company as defined in the Banking Regulation Act, 1949 (Central Act 10 of 1949) or a corporation established by or under any statute and carrying on the business of banking, such inspection shall be made only at the premises of the company or the corporation, as the case may be, and only on a working day and such foreman shall pay such fees as may be prescribed for the inspection.

CHAPTER IX

Winding up of Chits

39. When Chit may be wound up.— A chit may be wound up by the District Court:—

(a) if the chit has terminated under clause (c) of section 32, or

(b) if the foreman fails to give the security specified in section 12 or if he commits any such act in respect thereto as is calculated to impair materially the nature of the security or the value thereof, or

(c) if [he] the foreman fails to deposit the chit moneys in accordance with the provision of this Act, or

(d) if it is proved to the satisfaction of the court that the foreman is unable to pay the amounts due to the subscribers, or

(e) if execution or other process issued on a decree or order of any court in favour of any subscriber in respect of amount due to him from the chit is returned unsatisfied in whole or in part, or

(f) if it is proved that there has been fraud or collusion on the part of the foreman in the matter of taking securities from prized subscribers, or

(g) if the foreman has appropriated the prize amount in his capacity as a subscriber without furnishing sufficient security for future subscriptions, or

(h) if it is just and equitable that the chit should be wound up.

Explanation.— For the purposes of clause (d), in determining whether the foreman is unable to pay the amounts due to the subscribers, the court shall take into account his contingent and prospective liabilities in respect of the chit:

Provided that a chit conducted by a company within the meaning of the Companies Act, 1956, (Central Act 1 of 1956) shall be wound up only by the court having jurisdiction under that Act.

40. Winding up application.— The application to the court for the winding up of a chit shall be by a petition presented by any non-prized subscriber or unpaid prized subscriber or by the Registrar, signed and verified in the manner prescribed by the [law relating to Civil Procedure for the time being in force] Code of Civil Procedure, 1908 (Central Act 5 of 1908) and shall contain such particulars as may be prescribed:

Provided that no application for the winding up of a chit under clauses (d) and (h) of section 39 shall lie unless such petition is presented—

(a) by those non-prized subscribers and those unpaid prized subscribers whose subscriptions to the chit amount in the aggregate is at least twenty-five per cent of the amounts contributed by all the non-prized subscribers and unpaid prized subscribers, or

(b) with the previous sanction of the Government.

[Explanation.— For the purpose of the above proviso, a subscriber of a fraction of a ticket shall be deemed to be subscriber only to the extent of such fraction].

41. Insolvency or liquidation a bar to winding up proceedings. — Notwithstanding anything contained in sections 39 and 40 no petition for the winding up of a chit shall be entertained by a court if proceedings under the law relating to insolvency for the time being in force are pending against the foreman for adjudicating him an insolvent or when the foreman is a company if proceedings for winding up the company are pending against such company in a court.

42. Commencement and effect of winding up order. — An order for the winding up of a chit shall operate in favour of all the subscribers to whom amounts are due from the chit and it shall be deemed to have commenced from the time of the presentation of the application for the winding up.

43. Injunction order. — The court may, upon the application of the foreman or of any subscriber to whom amounts are due in respect of the chit at any time after the presentation of the application for the winding up of a chit under this Act and before making of an order for the appointment of an interim Receiver or for winding up the chit, restrain further proceeding in any suit [for] or proceeding instituted against the foreman for the realisation of amounts due from the chit upon such terms as the court thinks fit.

44. Powers of court on hearing application. — On hearing the application, the court may dismiss it with or without cost or adjourn the hearing conditionally or unconditionally or make an interim order or any other order that it deems fit.

45. Chit assets to vest in court for distribution. — On the making of an order for the winding up of a chit, the entire chit assets shall vest in the court for distribution amongst the subscribers to whom amounts are due in respect of the chit and the court shall pass such orders in the matter, [(including the appointment[s] of a [r]Receiver)], as it deems fit.

46. Suits stayed in winding up orders. — When a winding up order has been made by a court, no suit or other legal proceedings shall be continued or commenced against the foreman by a subscriber for the realization of amounts due to him in respect of the chit except with the leave of the court and on such terms as the court may impose.

47. Copy of winding up order to be filed with Registrar. — (1) On the making of a winding up order, it shall be the duty of the petitioner in the winding up proceedings and of the Receiver to file with the Registrar a copy of the order, within one month from the date of the making of the order:

Provided that the Registrar, may, upon application in writing by the petitioner or Receiver, allow, in his discretion, further time not exceeding fifteen days for the filing of any such copy.

(2) On the filing of a copy of the winding up order, the Registrar, shall make an entry thereof in his books relating to the chit and shall notify in the Official Gazette that such an order has been made.

48. Stay of winding up proceedings on insolvency of foreman [and transfer of insolvency proceedings]. — When during the pendency of the proceedings for the winding up of a chit, the foreman is adjudicated as insolvent or when the foreman is a company, the company has been ordered to be wound up by the court, the winding up proceedings under this Act shall cease and the distribution of the chit assets shall, subject to the provisions contained in sections 35 and 43, be made by the insolvency court or the court winding up the company, as the case may be.

49. Compensation for frivolous or vexatious application. — (1) When an application presented for winding up a chit is dismissed and the court is satisfied that the application is frivolous or vexatious, the court may award against the applicant such amount not exceeding five hundred rupees, as it deems reasonable as compensation to the foreman for the expense or injury occasioned to him by the application and the proceedings thereon and such amount may be realised as if the award were a decree.

(2) The award of any amount [Compensation] under sub-section (1) shall bar any suit for [from] compensation.

50. Right of appeal. — The foreman, any subscriber, the Receiver or any other person aggrieved by a decision or order of the court in proceeding for winding up a chit may, within two months from the date of such decision or order appeal to the Judicial Commissioner's Court.

51. Limitation. — (1) Where an order refusing to wind up a chit has been made under the Act, the chit shall be deemed to have been under suspension from the date of the presentation of the application to the date of such order in respect of non-prized subscriber, and notwithstanding anything contained in the chit agreement, no non-prized subscriber who was not a defaulter on the date of the presentation of the application for winding up shall be deemed to be defaulter on the date of its dismissal.

(2) Where an order refusing to wind up a chit has been made under this Act, in computing the period of limitation prescribed for any suit or other legal proceedings (other than a suit or an application in respect of which the leave of the court has been obtained) which might have been brought or instituted, the period from the date of the presentation of the application to the date of the order refusing to wind up the chit shall be excluded.

(3) Nothing contained in this Act shall affect the right of the subscriber to proceed by suit or application against the foreman personally for the balance, if any, of the amount due to him after the declaration of the final dividend in the proceedings for winding up the chit and in computing the period of limitation prescribed for any such suit or application, the period from the date of the presentation of the application for winding up the chit to the date of declaration of the final dividend shall be excluded.

CHAPTER X

Officer, Inspection and Fees

52. Appointment of Director of Chits, Inspecting Officers, Registrars and Chit Auditors. — (1) The Government may, by notification, appoint a Director of Chits and as many Inspecting Officers and Registrars as may be necessary for the purpose of discharging the duties imposed upon [the Director of Chits, the Inspecting Officers and the Registrars] such Officers, by or under this Act or the rules made thereunder.

(2) The Director of Chits may appoint as many Chit Auditors as may be necessary for the purpose of discharging the duties imposed upon the Chit Auditors by or under this Act or the rules made thereunder.

(3) All Inspecting Officers, [—] Registrars and Chit Auditors shall discharge the duties imposed upon them by or under this Act or the rules made thereunder, under the general superintendence and control of the Director of Chits.

(4) If the Registrar is of the opinion that the accounts of any chit are not properly maintained and that such accounts should be audited, it shall be lawful for him to have such accounts audited by a Chit Auditor and thereupon it shall be the duty of the foreman of the chit concerned to produce before the Chit Auditor all accounts books and other [recorde] records relating to the chit, to furnish him with such information as may be required and to afford him all such assistance and facilities as may be necessary or reasonable and as may be required in regard to the audit of the accounts of the chit.

(5) The foreman shall pay to the Chit Auditor such fees as may be prescribed for the audit of the accounts of a chit under sub-section (4).

53. Inspection of document in the Registrar's Office. — Any person may on payment of such fees as may be prescribed —

(i) inspect the documents kept by the Registrar and

(ii) obtain a copy or extract of any document [to be] certified by the Registrar.

54. **Levy of fees.** — (1) There shall be paid to the Registrar such fees as the Government may, from time to time, prescribe for —

- (a) the registration of the bye-laws of a chit under section 3;
- (b) the grant of a certificate of commencement under section 7;
- (c) filing with the Registrar of the chit agreement and copies of documents under sections 11, 20, 21, 30 and 33;
- (d) the inspection of documents under section 53;
- (e) [the certificate], a certified copy [of] or extract of documents under section 53;
- (f) the audit of the accounts of the foreman and the issue of an audit certificate;
- (g) such other matters as may appear necessary to give effect to the purposes of this Act.

[(h)] (2) (a) A table of fees payable under sub-section (1) shall be published in the Official Gazette.

(b) The Registrar shall deliver the certified copy, or extract, of document, within seven days from the date of application.

CHAPTER XI

Miscellaneous

55. **Appeal.** — (1) Any foreman aggrieved by an order of the Registrar — [may within thirty days of the communication to him of such order appeal to the Director of Chits].

- (a) refusing to register the bye-laws of a chit under sub-section (1) of section 3;
- (b) refusing to grant a certificate of commencement under sub-section (2) of section 7;
- (c) refusing to accept the security under clause (a) of sub-section (1) of section 12 or under section 24; or
- (d) refusing to release the property charged by way of security or to order, the release of the cash security or the Government securities under sub-section (6) or sub-section (7) of section 12;

may within thirty days of the communication to him of such decision appeal to the Director of Chits.

[(2) Any foreman or any other person aggrieved by an order of the Registrar under sub-section (1) of section 27 or by an order of an officer empowered by Government under sub-section (2) of that section may, within thirty days of the communication to him of such order, appeal to the Director of Chits.]

[(3)] (2) The Director of Chits may, after giving the appellant an opportunity of being heard, pass such orders on the appeal under sub-section (1) [or sub-section (2)] as he thinks fit.

56. **Power of Registrar to condone delay in certain cases.** — The Registrar may, in his discretion and upon an application in writing by any foreman made within the period of fourteen days specified in any of the provision of sub-section (3) of section 20, sub-section (2) of section 21, section 30 and section 33, allow to the foreman further time not exceeding fifteen days to file a copy of any document under any of the provisions referred to above.

57. **Penalties.** — (1) Whoever contravenes or abets the contravention of any of the provisions of sections 3, 4 and 7 shall be punishable with imprisonment for a term which may extend to [one] two years or with fine which may extend to [five hundred] one thousand rupees or with both.

(2) Any foreman —

- (a) who does not file the chit agreement under section 6 or a copy of any document under section 11, sub-section (2) of section 20, sub-section (2) of section 21, section 30 or section 33 within the period specified for such filing or within the further time allowed under section 56 for such filing; or

(b) who contravenes any of the provisions of section 8, sub-section (1) and sub-section (2) of section 12, section 14, section 15, section 16, section 18, section 20, section 21, section 22, section 24, sub-section (4) of section 26, section 30, section 36, section 37, section 38 and sub-section (4) of section 52, or

(c) who fails to comply with the requirements of the chit agreement regarding the date, time and place at which the chit is to be drawn;

shall be punishable with fine which may extend to [one] two hundred rupees.

(3) whoever in any document required by, or for purposes of any of the provisions of this Act wilfully makes a statement false in any material particular knowing to be false, shall be punishable with imprisonment for a term which may extend to [one] two years or with fine which may extend to [five hundred] one thousand rupees or with both.

58. Cognizance of offences.— No court inferior to that of Judicial Magistrate of the first class shall try any offence under this Act:

Provided that no such court shall take cognizance of offence except on a complaint filed by the Registrar or the Inspecting Officer.

59. Application of fines.— The court imposing any fine under this Act may direct that the whole or any part thereof be applied towards payment of the costs of the proceedings.

60. Power to enter and search any place and to seize documents etc.—

(1) A Judicial Magistrate of the first class may, on receiving a report from the Registrar or the Inspecting Officer appointed under sub-section (1) of section 52 that any person conducts or is responsible for the conduct of a chit in any place in contravention of the provisions of this Act, issue a warrant empowering the Registrar or the Inspecting Officer to enter such place with such assistance as he considers necessary and inspect the books, registers, accounts or documents in such place.

(2) On receiving the warrant issued under sub-section (1) the Registrar or the Inspecting Officer may enter the place with such assistance as he considers necessary and inspect the books, registers, accounts or documents in such place and may take to his office for further investigation such books, registers, accounts and documents as he considers necessary:

Provided that if the Registrar or the Inspecting Officer removes from the place any book, register, account or document he shall give to the person in charge of the place a receipt describing the book, register, account or document so removed by him:

Provided further that within twenty four hours of the removal of the books, registers, accounts and documents, from the place the Registrar or the Inspecting Officer shall either return them to the person from whose custody they were removed or produce them in the court of the Magistrate who issued the warrant and such Magistrate may return the books, registers, accounts and documents or any of them to the person from whose custody they were removed by the Registrar or the Inspecting Officer, after taking from such person, such a security as the [m] Magistrate considers necessary for the production of the books, registers, accounts and documents, when required whether by the Registrar or by the Inspecting Officer or by the court, or may pass such other orders as to their disposal as appear just and convenient to the [m] Magistrate.

(3) The Registrar or the Inspecting Officer shall have authority to require any person whose testimony he may require regarding any chit agreement to attend before him or to produce or cause to be produced any document and to examine such person on oaths.

(4) The Registrar or the Inspecting Officer may apply for assistance to an officer-in-charge of a police station and take police officers to accompany and assist the Registrar or the Inspecting Officer in performing his duties under this Act.

(5) The provisions of section 102 of the Code of Criminal Procedure, 1898 (Central Act 5 of 1898) shall, so far as may be, apply to a search under this section.

61. Payment to be evidenced by document. — All payments in respect of chit whether by the foreman or by the subscriber shall be evidenced by documents in writing.

62. Interest at more than twelve per cent not to be allowed. — No court shall award interest on claims arising under this Act at more than twelve per cent per annum simple interest.

63. Power of court to grant relief in certain cases. — Nothing contained in the foregoing provisions of this Act shall affect the powers vested in a court for granting relief against any of the provisions contained in the chit agreement, if the same be unconscionable or opposed to the provisions of any law.

64. Power to make rules. — (1) The Government may make rules for carrying out all or any of the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for or regulate —

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the matter in respect of which provisions shall be made in the bye-laws of a chit and the procedure to be followed in making, registering, altering and abrogating bye-laws, and the conditions to be satisfied prior to such making, registration, alteration or abrogation;

(c) the particulars which every chit agreement shall contain;

[(d)] (d) the method of valuation of grains by the Registrar in a grain chit, for the purposes of security under section 12;

[(e)] (d) the restrictions and conditions subject to which and the manner in which, any security given by a foreman under section [18] 12 may be changed or substituted;

[(f)] (e) the procedure to be followed by the Registrar for the release of security given by the foreman under section 12;

[(g)] (f) the maintenance of registers and books of accounts by the foreman, the safe custody of the books, papers and documents in the Registrar's office and also for the destruction of such books, papers and documents as need no longer be kept;

[(h)] (g) the procedure to be followed for the winding up of a chit under Chapter IX; and

[(i)] (h) the auditing of the balance sheets and profit and loss accounts and the issue of audit certificates.

(3) (a) All rules made under this Act shall be published in the Official Gazette and, unless they are expressed to come into force on a particular day, shall come into force on the day on which they are published.

(b) All notifications issued under this Act shall, unless are expressed to come into force on a particular day, come into force on the day on which they are published.

(4) All rules made and all notifications issued under this Act shall, as soon as may be after they are made or issued be laid before the Legislative Assembly, Goa, Daman and Diu while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which they are so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or notification or decides that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

65. Recovery of amounts due from a foreman. — All amounts due from a foreman to the Registrar or any other officer under this Act by way of any fee shall be recoverable as arrears of land revenue.

66. Act not to apply to certain chits. — The provisions of this Act shall not apply in respect of —

- (1) any chit started before the commencement of this Act, or
- (2) any chit amount of which or where two or more chits are started or conducted simultaneously by the same foreman, the aggregate chit amount of which does not exceed one hundred rupees.

67. Power to exempt. — The Government may, by notification in the Official Gazette, exempt any [person or class of persons] institution rendering service of any charitable nature from all or any of [its] the provisions of this Act other than section 12, subject to such conditions as [they] it deems fit and may cancel or modify any such notification.

68. Stamp duty. — Notwithstanding anything contained in [any law relating to stamp duty] the Indian Stamp Act, 1899 (Central Act 2 of 1899) as applied to this Union territory, a chit agreement, [that is an agreement relating to a chit as defined in clause (3) of section 2 of this Act] shall bear a stamp duty of rupees one and fifty paise, if either such agreement is executed or if the chit is conducted in the Union territory in accordance with the provisions of this Act.

69. Repeal and saving. — (1) Any law corresponding to this Act in force in the Union territory immediately before the commencement of this Act, shall stand repealed on such commencement of this Act;

Provided that repeal shall not affect —

(a) (i) the previous operation of the corresponding law or anything done or duly suffered thereunder;

(ii) any right, privilege, obligation or liability acquired, accrued or incurred under the corresponding law; or

(iii) any penalty, forfeiture or punishment incurred in respect of any offence committed against the corresponding law; or

(iv) any investigations, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid and any such investigation, legal proceeding or remedy may be instituted, continued or enforced and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed; or

(b) the operation of the corresponding law in respect of [chitties] chit started before the commencement of this Act.

(2) Subject to the provisions of sub-section (1) anything done or any action taken, including any appointment or delegation made, notification, order, instruction or direction issued, or any rule, regulation or form framed, certificate granted or registration effected under the corresponding law shall be deemed to have been done or taken under this Act and shall continue to have effect accordingly, unless and until superseded by anything done or any action taken under this Act.

[70. Power to remove difficulties. — (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) All orders made under sub-section (1) shall, as soon as possible, after they are made, be placed on the table of the Legislative Assembly, Goa, Daman and Diu and shall be subject to such modifications by way of amendment or repeal as the Assembly may make either in the same session or in the next session.]

Assembly Hall,

Panaji,

25th September, 1973.

B. M. MASURKAR

Secretary to the Legislative Assembly
of Goa, Daman and Diu